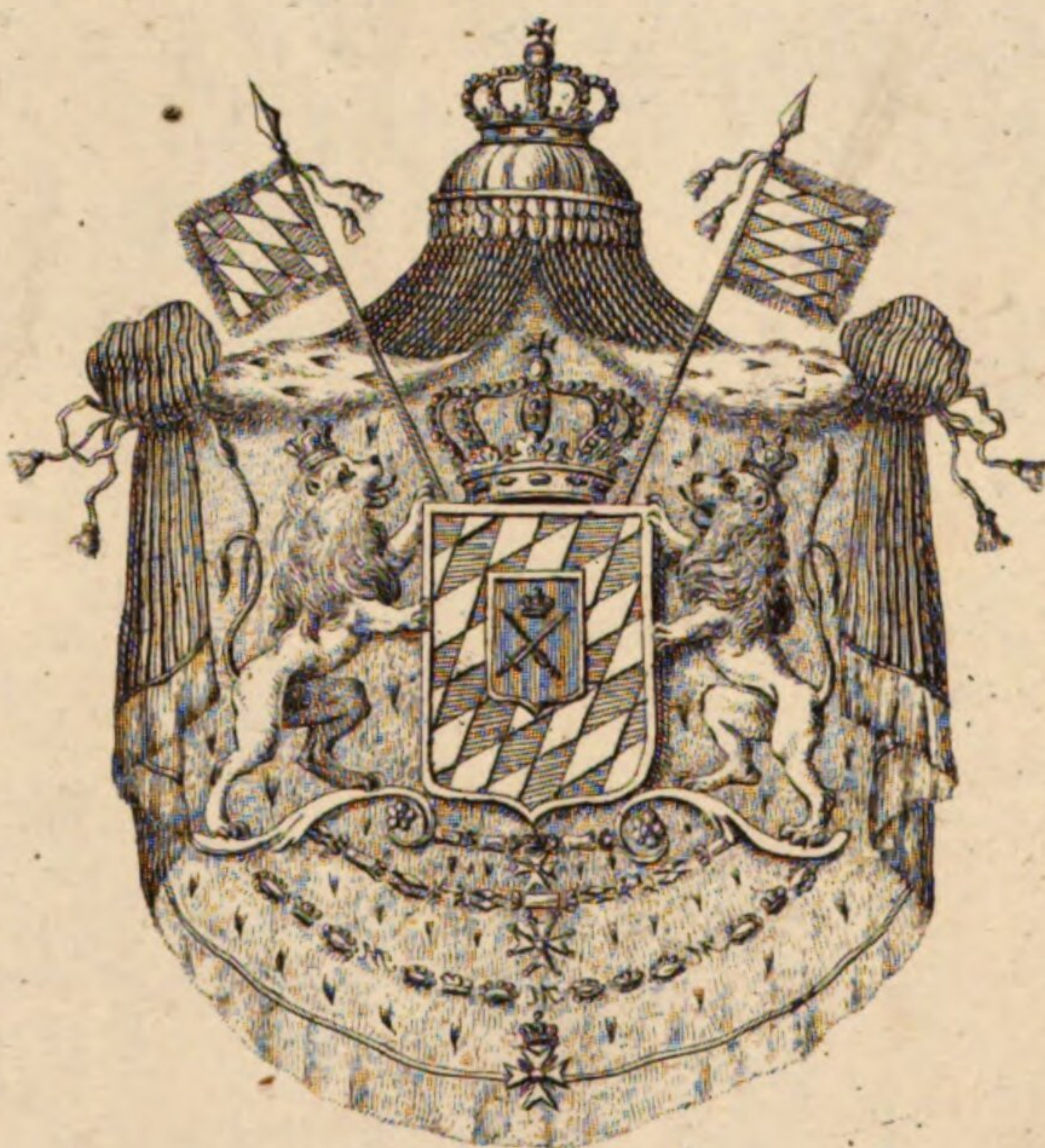




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History

(No 319)



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H I S T O R Y
OF THE
POLITICAL CONNECTION
BETWEEN
ENGLAND AND IRELAND,

FROM

The Reign of HENRY II. to the PRESENT TIME.

L O N D O N:

Printed for T. CADELL in the Strand.

M,DCC,LXXX.

HISTORY

POLITICAL CONNECTION

NEW

ENGLAND AND IRELAND

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A D V E R T I S E M E N T.

TH E following Essay is intended to exhibit a candid account of the political connection which has subsisted between England and Ireland, from its commencement in the reign of Henry II. to the present time. The Author has not indulged himself in establishing any system, or in deducing any conclusions. He has been contented with furnishing the materials, and has left the reader to form his own judgment. He had no view of gratifying any party or any people, at the expence of truth; he wished only to lay before the public the real state of the political arrangements which have taken place between the two nations, and to enable the reader to determine whether the opinions generally entertained of these arrangements are well or ill founded.

It appeared that such a performance would at least gratify curiosity, by presenting a detail of one of the most singular national connections which history has to communicate; a connection which has been misrepresented by party writers, and has not been fully elucidated by the Historians of either kingdom. But the chief object of the author was to render the publication useful at a period when the affairs of Ireland deeply engage the attention of the legislative bodies of both kingdoms, and when important commercial privileges are to be extended to that island.

An

An Appendix is subjoined to the History. It contains papers which occurred in the course of the Author's investigations, and which appeared to merit attention, as they presented confirmations of facts, or illustrations of topics, which could not conveniently be introduced into the text. All the papers are indeed selected from books already in print ; but the greater part of these books are equally unknown to the generality of readers as if they were manuscript.

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POLITICAL

POLITICAL CONNECTION
BETWEEN
ENGLAND AND IRELAND.

CHAPTER I.

Wars of France—Henry II. projects the Conquest of Ireland—State of that Kingdom—Pentarchy—Tanistry—Gavelkind—Criminal Jurisprudence—Diffentions among the Irish Chiefs—Welsh Lords assist the Chief of Leinster—Progress of their Arms—Manner of making War among the Irish—Henry undertakes an Expedition into Ireland—Receives the Submissions of the Irish Chiefs—Civil Regulations—Convocation—Returns to England—Situation of Ireland.

THE Kings of England, for a considerable time after the Norman conquest, were chiefly engaged in the wars of France. They possessed extensive territories in that country, which had descended to them from their ancestors, and which they were solicitous to retain, or to enlarge. While England remained in the possession of the Saxons, separated from Wales,

and divided into feveral independent governments, it could accomplish no plan of hostility againſt any neighbouring ſtate; but, as ſoon as it was united under the Norman Princes, its reſources became formidable to the ſafety of any adjacent power againſt which they might be directed. The ſituation and diſtracted ſtate of Ireland could not fail, at this period, to attract the attention of the Engliſh monarchs; and, if the wars of France had not afforded them ſufficient employment, it can ſcarcely be doubted, that the conqueſt of Ireland would have been ſooner attempted.

Henry II. was the firſt King of England who ſeriously formed this deſign, and he formed it immediately after his acceſſion in the year 1151, when he poſſeſſed no means of carrying it into execution. He perhaps looked forward to the period when the ſettlement of his affairs at home, and the gratification of his wiſhes in France, would enable him to add Ireland to his other dominions; and, in the mean time, he was ſolicitous to obtain a pretext for the exertion of his arms in this quarter.

Inter-eſt generally governs the reſolutions of Princes. Though juſtice is always in their mouths, and held forth as the guide of their actions, ſuch language is little more than a compliment to the general ſenſe of mankind, which it is not ſafe, even for Princes, altogether to diſregard. Henry, accordingly, to juſtify his purpoſe of invading a neighbouring kingdom, which had given him no offence, and had no dependence on him, pretended to offer it the moſt important benefits: While he deprived the Iriſh of their liberty and their property, he would conſult the ſalvation of their ſouls; and, in this view, obtained from the Pope a * bull authoriſing

* Rymer, tom. 1. p. 15.

authorising him to conquer the Irish, in order to reform them. Nothing, however, was attempted in consequence of this papal commission, till the year * 1166, when the dissensions among the Irish prompted one of their chiefs to solicit the assistance of some Welsh Lords; and Henry, still occupied in the wars of France, gave licence, by letters patent, to these Lords, and their followers, to interfere in the affairs of Ireland.

Never was the condition of a kingdom more favourable to invasion than that of Ireland. It was divided into five provincial kingdoms, Munster, Leinster, Ulster, Connaught, and Meath †, which were subdivided into a great number of lesser independent jurisdictions. Over each of these kingdoms presided a chieftain; and this division constituted what was called the Pentarchy; though, according to Harris ‡, Meath was the private demesnes of the supreme Monarch, and was appropriated to the maintenance of his household §. In antient times, the power of the supreme Monarch seems to have been considerable, and equivalent to that of the sovereigns in the other feudal kingdoms of Europe. But a peculiarity in this species of government prevailed longer in Ireland, and accounts for the singular revolutions to be found in her civil constitution and laws.

In early periods, a feudal King was the strongest, the bravest, or the

* Girald. Cam. Hib. expug. lib. 1. c. 1.

† Ware, published by Harris, p. 30. Munster, as appears from an old manuscript quoted by Harris, contained seventy cantreds, or hundreds; Leinster thirty-one; Connaught thirty; Ulster thirty-five; Meath eighteen, in all, 184. A cantred contained thirty-two town-lands. Every town-land could pasture 300 cows, and comprehended eight plow lands.

‡ Ware's antiq. p. 67.

§ Finglass's Breviate.

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the wisest man of his tribe ; and, as these qualities could not always be expected to descend to heirs, such a King was called to the throne by election. In the greater part of the feudal kingdoms of Europe, this method of attaining sovereignty, through the attachment of the people to the reigning family, was converted into hereditary succession ; but in Ireland it continued in its full vigour for many ages. It diminished the little power originally possessed by the monarch, and hardly left him more than the name of sovereignty. It spread through the remaining four provincial kingdoms, the chiefs of which were all elective. It extended even to the chiefs of inferior districts ; and, from the sovereign, to the meanest leader of a tribe, the possessor of every species of political power was exalted to his office by election.

A constitution so constructed involved the seeds of every disorder and calamity incident to human society. The disposal of so many and so various degrees of power must have been the origin of continual intrigue, and frequent hostility. Every accession of influence procured by one family, must have excited jealousies and enmities among its rivals. The power of the provincial chiefs naturally aspired to exalt itself, and could scarcely remain inactive while any obstacle which opposed its exertions subsisted. These chiefs, of course, became independent of one another ; they assumed to themselves every civil and military jurisdiction ; they affected the majesty, and claimed the name of Kings.

Civil regulations are generally connected by necessary dependence, or prompted by external circumstances. This singular constitution was accordingly productive of the worst consequences

to

to society, not only by cherishing a spirit of dissention and hostility, but by repressing the exercise of all those arts which support and ornament human life. By the practice of Tanistry, the attachment of the chief, whether superior or subordinate, was alienated from his tribe; by the practice of Gavelkind, every idea of private property was annihilated, and the arts of cultivation were suspended; by a relaxed system of criminal law, which imposed no higher punishment than a fine for the most enormous crimes, every species of iniquity might be practised, almost with impunity.

To prevent the convulsions which were expected to arise from the sudden election of a successor, on the death of a chief, the election was appointed to take place during his life. The person elected was called *Tanist*, and the election *the law of Tanistry* *. The Tanist enjoyed not the emoluments of the tribe till the death of his predecessor, and he could hope to convey none of the fruits of his high station to his posterity, but such as he might procure by rapacity during his administration. Instead, therefore, of consulting the honour and happiness of his people, we must suppose him anxious to provide for himself. Instead of resembling a good king, whose best security is founded on the attachment and prosperity of his subjects, he appears under the character of a rapacious governour of a distant province, who has no aim but to enrich himself at the expence of the miserable people over whom he presides.

As the different tribes lived in a state of real or apprehended hostility, it was needless to assign to individuals a property which

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they

* Davies, p. 167. edit. 1613.

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they would not cultivate; and it was necessary, for the public defence, to attach them to the general interest, in preference to private. By the practice of Gavelkind the land was the property of the community; no portion of it descended from father to son; it was divided occasionally among the families of the tribe; and, as these happened to be more or less numerous, the assignments of land were less or greater in proportion. Upon the death or removal of any possessor, a new division was made of the whole land, to accommodate it to the number of the inhabitants. In such a situation of property, no cultivation could be attempted. No building, no plantation, no agriculture, were to be expected. No man would improve what he could not long possess. No man, perhaps, would have been permitted to cultivate a district by an introduction of the useful arts, which might prove a temptation to a rapacious neighbour to invade it.

When the chieftains depended so much on the people for aid in defending their territories and asserting their claims; when, in the intervals of hostility, the people were either totally idle, or engaged in plundering the possession of some adjacent tribe; when, on one hand, the leaders durst not punish the guilty, lest they should forfeit the attachment of the people on which their safety depended; and, on the other, the temptations to acts of violence and injustice were frequent and strong, it is easy to account for that defective criminal jurisprudence which punished the grossest enormities by the infliction of a compensation in money or cattle. It is in an advanced state of society, and under a steady and regular administration, that any criminal can with ease be brought to exemplary punishment. In all states of society, the bulk of the people

people would permit the culprit to escape with life; and their sympathy, if permitted to operate, would counterbalance all considerations of justice, and of the peace and security of the public. The Irish criminal law, accordingly, was the offspring of external circumstances, the natural fruit of the distracted civil constitution of the country. It marks how little progress civilization had made among that people, from the state of nature, where every individual possesses the right of defending himself, toward that regular and legal state which surrenders the right of punishment into the hands of the community, and peaceably submits to its decisions*.

From the same feeble state of civil government arose other customs peculiar to Ireland, called by the names *Gossiprid* and *Fostering*†. To strengthen the bonds of affection between the higher and lower ranks of society, which was the chief source of their security, it was usual with the former to permit their children to be reared and educated by the latter, who, on their part, frequently offered large donations for the privilege of being permitted to incur this trouble and expence. Such an unnatural practice could originate and be continued from no principle but necessity.

* When, in the end of the sixteenth century, Deputy Sir William Fitz-Williams told Maquire, chief of Fermanagh, that he intended to send into his country a sheriff to preserve peace and execute the laws; the chief replied in these words: 'Your sheriff shall be welcome to me; but let me know his Erick, or the price of his head, that, if any of my people put him to death, I may levy the sum from the county.' Davies, p. 166. A similar criminal jurisprudence prevailed in England in the Saxon times.

† Ware, p. 73. These words seem to have denoted different stages of the same sort of intercourse.

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neceffity. Nothing lefs than the great law of felf-defence could fo far counteract the dictates of nature, and thofe feelings of averfion which the more polifhed members of a community entertain againft the manners, habits, and fentiments of the inferior orders of men. But, however this practice may mark the barbarity of the age, it feems to have been adequate to the purpofe for which it was introduced. The education of a pupil of rank in the family of a dependent, formed a mutual connection, which was facred and indiffoluble, and which no intereft, no fubfequent attachment, no danger, could deftroy. The lives and fortunes of the dependents were at the difpofal of the pupil in every enterprife, without confideration of the hazard or of the juftice of his caufe. His moft faithful aid and friendly attention, on the other hand, were always expected and obtained, whenever their fituation called for his interpoftion.

Under fuch a conftitution, few of the ends of government could be attained, while the temptations to crimes appear to have been multiplied beyond even thofe which arife from a favage ftate. Men feemed to have loft the fentiments of juftice and humanity, to have recurred to the law of force, which regulates the conduct of the brute creation, and to have reckoned every enormity juftifiable, which they were able to defend. From fuch a ftate of fociety, nothing could result, but the miferable original of that difmal picture which all writers on the fubject concur to exhibit of the condition of Ireland, at the time of the Englifh invafion. Rapine, and murder, and treafon, thefe groffeft expreffions of human corruption, with the total neglect of every ufe-ful and ornamental art, prevailed among the people. The moft bitter

ter animosities, the most savage contentions for power, animated the chiefs, superior and subordinate. Amidst such violent dissensions, all sense of public interest seems to have been extinguished, and a chief of Ireland offered to sacrifice the sovereignty of his country to gratify his resentment against his countrymen, who had deprived him of his territories.

The limits of this Essay will not permit the prosecution of the unentertaining detail of the transactions by which Dermot King of Leinster was driven from his dominions, nor to discuss the justice of the pretensions of the different partizans in that contest. All that is necessary to be known is, that Dermot had recourse to the King of England for aid against his enemies, and presented the opportunity which Henry had long sought to interfere in the affairs of Ireland. He landed in Wales, and passed through England to France, where Henry was then occupied in the wars of that country. He represented, that he had been most unjustly banished by a combination of his foes, and that, if the King of England would contribute to his re-establishment, he would acknowledge himself a vassal of that monarch, and would perform all the duties demanded by such allegiance*. This temptation was too captivating to be slighted by Henry, while his other engagements permitted him not to detach any regular forces in support of the claims of the Irish chief. He did, therefore, all he could; he granted letters patent†, permitting his subjects to take part in the wars of Ireland, and to assist the cause of the exiled monarch, on such conditions as they should think proper to stipulate.

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Dermot

* Girald, Hib. ex. lib. 1.

† In the year 1167.

Dermod returned to England not a little pleased with the behaviour of the King, and confident of finding, in the generosity of his people, the assistance he needed. He repaired to Wales, where the story of his banishment was best known, and from which the transportation of troops to Ireland was most safe and expeditious. He opened to the Welsh the letters of Henry, and urged the humanity and heroism which would be displayed, the everlasting fame and ample rewards that would be acquired, by engaging in the enterprise. In an age fond of adventure, in which the glories of war and conquest were the idol of every hero, and the admiration of all mankind, we need not wonder that Dermod was successful in his solicitations. He first prevailed with Fitz-Stephen and Fitz-Gerald, two Welsh Lords, to join his standard with three hundred and ninety of their followers, and engaged Strongbow, another Lord of Wales, to follow this expedition, as quickly as possible, with a reinforcement of twelve hundred men*. With this contemptible force a great kingdom was to be invaded, and with this force it might have been in a great measure reduced, if the assailants had been able to preserve their conquests, by placing garrisons in the places they had over-run.

After many encounters with the natives, in which the invaders had generally been successful, the latter were at last attacked in the city of Dublin, by a force so superior, as seemed altogether irresistible. Thirty thousand† Irish are said to have surrounded the Welsh in that town, who, with reinforcements, and the adherents

* Hib, exp. lib. 1.

† Lambeth MS. Littleton, vol. 3. p. 74.

rents of Dermot, did not exceed six hundred. The barbarity with which the Irish were known to treat their prisoners, left no hope of life to the besieged. Collecting, therefore, courage from despair, and resolved, at least, to die like men, with their swords in their hands, they ventured to march out against the immense force of their enemies. If we can believe the author of the Lambeth manuscript, who may perhaps be suspected of some partiality, never was a victory more easily gained. The Irish fled at the first appearance of the Welsh; all their baggage and provisions were taken, the latter in such quantity as to supply the inhabitants of Dublin for a year. Fifteen hundred of their men were killed, and their army was totally dispersed; while this most decisive victory cost the Welsh the loss only of a single foldier.

Supposing some exaggeration in the preceding account, it cannot be doubted, that the behaviour of the Irish, on this occasion, was not a little dastardly. Though they were almost constantly in arms, they seem to have learned nothing of the art of war, in the knowledge of which the English had made considerable progress. They had scarcely any other missile weapon than stones, which they are said to have thrown with dexterity, and they were ignorant of all discipline. They rushed into combat in an irregular body; each warrior being armed with a Danish ax, and two short lances, for close encounters: And for distant engagements, he had, beside stones, the use of two darts. Such weapons might be bloody and destructive in the decision of family-feuds, or in pillaging expeditions against their countrymen, where the armour and discipline of both parties were similar; but, when

when brought to oppose the regular march, the bow, and the long lance of the English troops, the novelty of the circumstances might create a panic which will account for the greater part of the singular events above related.

The news of the advantages gained by his subjects had reached the ears of Henry, and he quickly perceived they were so considerable as to make it requisite for him to interfere in order to secure to his crown the emolument to be derived from them. He affected, therefore, high resentment against his Welsh subjects, who had presumed to extend their views beyond the object of his letters patent, and had attempted to conquer a kingdom for themselves, instead of restricting their efforts to the re-establishment of the prince of Leinster. He commanded Earl Strongbow, and the other Lords, in the most peremptory stile, not to proceed in their conquests. He prohibited all communication between England and Ireland, and he enforced his mandate by a denunciation of forfeiture and death in case of the least hesitation in obedience.

The policy of Henry on this occasion is easily understood. He wished now, in person, to lead an army into Ireland. The progress of his subjects had demonstrated the practicability of the design; and he had so disposed the state of his affairs in France and England, that he possessed leisure and resources to put it in execution. Having, then, received from Strongbow, and the other Welsh adventurers, the sovereignty of all the territories they had conquered in Ireland, and having prepared an army*, with a sufficient

* The number of soldiers in Henry's army is not recorded, and authors differ much about the number of his ships. Some affirm they amounted to 440; others, to no more than 240. Littleton, vol 3. p. 79. Leland. vol. 1. p. 68.

sufficient number of ships to transport it, he set sail from the port of Milford, and landed at Waterford, in the month of October one thousand one hundred and seventy-two. Never did an expedition of so much importance encounter so little opposition. The idea of English valour, and of the power of an English King, had been so magnified among the Irish by the achievements of the first invaders, that Henry was not once obliged to draw his sword. On his arrival, the Irish sunk into despondency; and, wherever he marched, thought of nothing but submission. He proceeded from Waterford to Dublin, and received the allegiance of all the chiefs of Leinster and Meath. Many of the chiefs also of Munster and Connaught acknowledged his sovereignty. But Roderic O'Connor, the nominal monarch of Ireland, and Prince of Connaught, still refused to submit. He collected a number of his dependents, and even preserved some appearance of resistance. He did not acknowledge the sovereignty of Henry* till the year 1175, which acknowledgment he signified, by sending deputies to the King at Windsor; who, to add more solemnity to the business, received them in full council. The record of this transaction has fortunately been preserved, and it explains the nature of the submission demanded from the Irish†. Henry considered himself as the feudal monarch of Ireland; and Roderic, in his own name, and in the name of all his vassals, was to do him homage, and pay him tribute. The tribute stipulated

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was

* Giraldus asserts, that Roderic submitted to Henry when in Ireland; but the silence of the Irish annalists, and the formality of this transaction, render more probable the account given in the text.

† Hoveden ad an. 1175.

was every tenth hide to be applied to the use of the public, with a proper provision of hawks and hounds, to be furnished annually, for the King's pleasures. All Ireland was to be subjected to these stipulations, except those parts immediately under the dominion of the King and his English barons, namely, the territories of Meath, Wexford, Dublin, and Waterford.

During the five months Henry remained in Ireland, he applied himself to the establishment of peace and good order among the inhabitants of the territories who acknowledged his immediate sovereignty. He divided the land into counties, and appointed sheriffs * to preserve the peace. He erected courts of justice †, nominated judges, and introduced the laws of England. From the Irish chiefs nothing was demanded but homage and tribute. They retained their old laws and customs, and every antient jurisdiction over their dependents and vassals. Many royal writs remain where they are even dignified with the title of Kings ‡.

As an exercise of his sovereign power, Henry granted a charter to the city of Dublin, which still exists ||. In compliance with his papal commission, and his public profession of conquering Ireland in order to teach the inhabitants religion, he convened a council of the clergy at Cashel. This reverend body loaded the King with compliments, and flattered him with the titles of their Saviour and Deliverer. Their canons, however, tended little to the reformation of religion. They respected the formalities of marriage, baptism, and the burial of the dead; but they contained something

* Vicecomites are mentioned in the first charter granted by Henry to the city of Dublin.

† Davis, p. 38.

‡ Davies, p. 16.

|| Leland, vol. i. p. 81.

something essential to the benefit of the order. They decreed, that ecclesiastical benefices should be exempted from taxes, and that the clergy should not be obliged to pay their proportion of fines levied for compensation of crimes, as it could not be supposed they would have any connection with the perpetrators. These regulations were ratified by royal authority*.

Henry did nothing farther to establish or preserve his authority in Ireland. The state of his affairs soon obliged him to return to England, and he left behind him no army to secure his conquests; he fortified no town, nor built any garrison. He abandoned the Welsh Lords to their own resources in maintaining their establishments in a hostile country, and in defending themselves against their numerous foes. Not long after he had retired, the Irish chiefs renounced their allegiance, which had originated only from fear. They thought themselves justified, both by the practice of their countrymen in similar cases, and by the principles of their jurisprudence, of which one was, that no Tanist could execute any deed to the prejudice of his successor†.

From the account given, it is manifest, that little progress was made by Henry in this famous expedition toward the conquest of Ireland. His dominion over the greater part of the island inhabited by the Irish, was ideal; and, though the allegiance of the small part in the possession of the English was founded in attachment and interest, and consequently sincere; yet the King made no effectual provision for their protection, and the execution of the laws he had given them. He assumed,

* Giral. Hib. ex. lib. 1.

† Davies, p. 12.

sumed, however, from the general submission of the people, the title of Lord of Ireland, and claimed in future a right to assert that title, whenever the situation of his affairs should permit him.

Before the arrival of the English in Ireland, the history of that country presents an uninterrupted series of provincial wars and family feuds; from that aera, to the complete reduction of it by James I. the chief objects exhibited are, the contentions between the English interest and the Irish. The former becomes prevalent in proportion as the Kings of England found it convenient to interfere in its support; but it languishes when that support is withdrawn. In the flourishing periods of the English interest, the territories of the pale are extended; a reverence for English laws, customs, and manners, is diffused among the Irish, and earnest petitions are preferred by them for participation of these privileges. In the neglected periods of this interest, contrary consequences are observed to prevail. The limits of the pale are circumscribed, and the customs, manners, and laws of the Irish, are partially adopted by the English. The various fluctuations of these interests, and the causes from which they proceeded, will be delineated in tracing the progress of the accession of Ireland to the crown of England.

CHAP.

CHAPTER II.

Henry shares the Sovereignty of Ireland with his Son John—Irish Tenures—John goes to Ireland—Progress made in the Conquest of that Kingdom during the Reign of Henry II.—Second Expedition of John after his Accession to the Throne of England—Political Arrangements—Irish Magna Charta.

HAD the Irish leaders preserved any union or cordiality among themselves, they could scarcely have failed in the extirpation of the English colonists. The latter were sensible of this disadvantage of their situation, and it became the chief object of their policy to divide enemies whom they could not oppose when united. In most of their wars, some Irish chief is found on their side. In the year 1177, the son of Roderic O'Connor, King of Ireland, engaged with them in war against his father. It would appear that none of the stipulations contained in the pacification of Windsor had been fulfilled by Roderic; and the English thought themselves at liberty to invade his territories under the conduct of his son. The distracted state of Ireland now called loudly for the interposition of Henry; but the situation of his affairs allowed him not either to repair to that kingdom, or to send thither any force. He * wished, however, to prompt his
E subjects

* Benedictus Abbas, p. 204.

subjects to interpose; and, as the prospect of obtaining lands in Ireland had been the capital inducement to the first adventurers, he resolved, on this occasion, to hold forth a similar temptation. He accordingly reconveyed to new vassals grants of lands in Leinster, which had been forfeited, or of which the former grants had expired, and he distributed among such other Lords as could best realize his royal donation, the greater part of the lands of Munster. These distributions were regulated by principles entirely feudal; and the services and soldiers are mentioned which each vassal was to provide for the defence of the sovereign. To add popularity and dignity to the project, he assumed into a share of the sovereignty of Ireland his youngest son John, and appointed the * tenures of lands to proceed in the names of both conjointly. He procured from the pope a ratification of the dignity he had conferred on his son, and he communicated the whole negotiation to a great council of English bishops and peers convened at Oxford.

This is the simple account of the settlement of the crown of Ireland by Henry II. on his son John, as related by contemporary writers, which has been the subject of so much political discussion, and has been supposed to involve important conclusions relative to the independence of that kingdom †. Nothing seems to have been more distant from Henry's intentions than, by this transaction, to separate from his crown the sovereignty of that island. That sovereignty, indeed, if we except the small part of the

* Hoveden, ad an. 1177.
Bolton's declaration.

† Mollyneux's case of Ireland, and Chancellor

the country possessed by the English, was at this time merely nominal ; and it would incur ridicule to confer a title which he had not to bestow. His design cannot be supposed to be any other than to induce his subjects, under the protection and countenance of his son, to procure for him a dominion which he had lost, and which he possessed not resources to procure for himself. But it is unnecessary to speculate on a subject concerning which authorities are so decisive. According to an original charter which still exists *, the express words of Henry, annexed to the grants of land on this occasion, were, ‘ Tenendam de me et Johanne filio meo,’ and the ‘ servitia facienda mihi et Johanni filio meo, et haeredibus nostris.’

Some of the chiefs to whom lands were granted in Munster, seem immediately to have taken possession of them ; but, as John was no more than twelve years of age when this settlement was made, no measures were adopted by him to fulfil the purposes of it till the year 1185, when he undertook an expedition into Ireland, in order to reduce that island to obedience. John’s youth and inexperience rendered him unfit for this difficult task ; and he appears to have been attended by counsellors equally giddy and improvident with himself. The armament which he conducted was sufficient to induce several of the adjacent chieftains to renew their allegiance to him and his father ; but the singularity of their dress and manner so entertained the young Prince and his courtiers, that they could not constrain themselves to treat their new vassals with decency †. The barbarians, proud of their
ancestors,

* Littleton’s hist. append. to Book 5. No. 3.
Benedictus Abbas ad an. 1185.

† Gerald Hib. exp. lib. 2.

ancestors, and zealously attached to their national customs, retaliated this behaviour with the keenest resentment. They disseminated the most unfavourable accounts of the character and prudence of their new sovereign, and excited such powerful combinations of their countrymen against the extension of his power, that, after several unsuccessful rencounters in the field, he was obliged to abandon Ireland, without making any progress in the reduction of that kingdom.

The weakness of John's short administration exposed it to the insult of the Irish, and the contempt of the English. Scarcely had he left the country, when De Lacy, Lord of Meath, claimed an independent jurisdiction in that district; and, with much industry, prepared to defend it. In this critical state of affairs, Lacy was assassinated by private treachery, and Curcy, a man of ability and prudence, was appointed deputy. The latter extended the jurisdiction of Henry into the north of Ireland, and reduced to obedience that part of Ulster which lies between the Boyne and the Ban*.

Such was the progress made in the conquest of Ireland during the reign of Henry II. The account given by Matthew Paris† of the council held by this Prince at Lismore, where the laws of England were cheerfully accepted by the Irish, and oaths were sworn by them for the careful observation of these laws, if founded in truth, must be supposed to refer only to the general submission of the Irish, or must be restricted entirely to the English colonists. Nothing is more certain than that Henry did not de-

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* Hib. expug. lib. 2.

† Hist. Hen. II.

mand of the Irish a renunciation of their laws and customs; that the conferring of the privileges of English subjects, was afterwards considered as a favour, and was frequently the object of earnest solicitation. Neither does good reason appear for supposing that Henry established any thing like a parliament in Ireland, or that he sent thither a form of holding parliaments after the manner of those of England. However favourable an opinion of the Irish *modus* may be entertained by Justice Coke, the Bishop of Meath, and Mr Mollyneux *, it cannot be considered in any other light than that of a political imposition. The title of Conquestor Hiberniae assigned to Henry in this paper, is to be found in no authentic deeds of that monarch, though many of them still remain. In the next place, a regular parliament had hardly yet appeared in England. The assemblies which are dignified by that name, were conventions only of Peers and Prelates. They seem to have possessed little legislative jurisdiction. They were convened chiefly for the purposes of advice, and few of their transactions appear to have been committed to writing. In the last place, the ecclesiastical convention of † Lismore, though it intermeddled, as clerical conventions have often done, with civil business, yet cannot aspire to the appellation of a Parliament. It was called for the purpose of reforming religion; most of its resolutions refer to that object; and the ratification of its edicts by royal authority, when several of these must have interfered with the jurisdiction of parliament, furnishes a strong presumption that no such court existed.

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From

* Case of Ireland, p. 23. Prynne anim. p. 6. 7. &c.

† Hib. exp. lib. 1.

From the death * of Henry II. to the year 1210, when John made an expedition into Ireland after his accession to the crown of England, no forces were detached from the latter kingdom to assist in the reduction of the former. The colonists were left to maintain their ground, and to fight their own battles. Though the war was conducted with various success, yet, during this period, the English interest had extended itself, and had acquired both additional friends and territory †. During this period also, John, perhaps with the consent of his brother Richard, who was too much occupied with affairs of greater importance to attend to the management of Ireland, exercised several acts of authority, which serve to explain the extent of the power with which he reckoned himself invested as Lord of that kingdom. He granted a charter to the city of Dublin, containing new privileges and rights. He alienated a small revenue, which he was entitled to levy from that city, for the purpose of maintaining the monastery of St Thomas, and exempted it from all secular exactions and services. He disposed of lands, to be held by knight-service of him and his heirs, and he appointed the deputies who presided over the kingdom ‡. He attempted also to exercise his right of nominating candidates to vacant bishopricks and abbies, which had been reserved to him in the charters of land granted to the English adventurers; and he demanded of the Irish clergy a subsidy towards defraying the expence of recovering Normandy from the French. In the execution, however, of neither of these last acts of royalty, does it appear that he was successful.

The

* An. 1189.

† Davies, p. 21.

‡ Leland, vol. 1. p. 155. Ib. p. 183.

The disputed title with which John ascended the throne of England, had excited commotions and remonstrances in Ireland, as well as in the other parts of his dominions. Some of the English Lords in that country, even proceeded so far as to renounce their allegiance, and to claim independence. As soon, therefore, as he had settled his affairs at home, he judged it necessary to repair to that island, in order to compose the commotions which threatened him with a general revolt.

Before John reached Dublin*, the public convulsions had, in some measure, been allayed by the prudence and activity of Meiler the deputy. The King, therefore, had nothing to do but to receive the submissions of the Irish chiefs, and to denounce his vengeance against the English barons, who, affraid to appear in his presence, had fled into voluntary exile in France. According to Matthew Paris, twenty Irish chiefs resorted to John to acknowledge his sovereignty; and the English interest was more generally established in all the provinces than it had been at any former aera.

The King now turned his attention toward the civil establishment of the pale, and to the most important of all political arrangements, the introduction of a code of laws†. Many of the new subjects‡ were no less ignorant than they were uncivilized. They were unacquainted with the equity and humanity of the English jurisprudence, and they understood not even the nature of the charters by which they held their lands. John brought with him a collection

* June 1210.

† Rot. 30. Henry III. Leland, vol. i. p. 190.

‡ They were composed of the English adventurers, and those Irish who had obtained grants of land within the pale.

collection of such English laws as he thought most salutary for them to adopt, and he was attended by some eminent lawyers, who might explain their meaning and inculcate their utility. These laws were received by the inhabitants of the pale; and, at their earnest request, a copy of them was deposited in the exchequer of Dublin, under the royal seal. They were there to be reserved for the benefit of the Irish subjects, and a bond of union between the two nations now conjoined under one crown.

John proceeded to another regulation requisite to give efficacy to the former, to divide the pale into counties, and to appoint sheriffs in each county. Something of this kind had been done by Henry II. ; but the narrow bounds within which the jurisdiction of this monarch had been confined, made it necessary for John to execute a new division, including that of his brother. According to Paris, the names of these counties, which instruct us concerning the extent of the territory, the inhabitants of which had consented to receive the laws of England, are as follow: Dublin, Kildare, Meath, Argial, now Lowth, Catherlogh, Kilkenny, Wexford, Waterford, Cork, Limerick, Kerry, and Tipperary. The lands of the Irish chiefs who had done homage to John, and which amounted to two third parts of the island *, are not included in this arrangement; because these chiefs persisted in conducting the civil government of their respective districts, by the laws and customs of their ancestors. To complete his civil regulations, the King established courts of justice, and appointed judges in Dublin. He even coined money, according to Paris †, after the standard of that of England.

* Davies, p. 123.

† Hist. p. 220.

England. Having finished these important cares, he returned to England in less than three months from the time he had arrived in Ireland.

Though John proceeded farther in the settlement of Ireland than had hitherto been done, yet his behaviour in this expedition is stamped with marks of weakness, inactivity, and cruelty, similar to those which characterise his government of England. He is said to have permitted an Irish chief, who had done him homage as his vassal, to insult him with impunity. He exercised the most mortifying severities against the families of the revolted Lords, pulled down their houses, and wasted their lands. He restored them to the possession of their estates; and, with a lowly policy, demanded a sum of money as the price of his favour. He, finally, along with England, surrendered Ireland into the hands of the pope, acknowledged himself a vassal of the holy see, and consented to pay annually for the latter kingdom the sum of three hundred marks as a testimony of his submission.

Communities seldom introduce important reformatations, unless in times of public calamity; and the disasters of nations have often proved subservient to their future greatness and security. The weakness and violence of the administration of John had roused his English subjects to assert those rights which they inherited from nature, and the constitution of their country, and to obtain the ratification of them in the memorable charter of Magna Charta. John did not long survive this transaction, and no similar deed had been executed with regard to Ireland. The minority of Henry III. * and the inclination of his ministers to compose the convulsions into which the nation had been thrown, during

* Who succeeded to the throne in 1216.

ring the feeble and impolitic reign of his father, afforded an opportunity of vindicating their liberty, which the Irish seized with avidity and with success. They demanded a charter of civil rights and privileges, similar to that which had been granted by King John at Runnymede; and they farther requested, that some person of the blood-royal should be sent to reside in Ireland, to superintend the execution of the laws. Henry's answer to these requisitions still exists *, and is the most gracious and satisfactory that could have been given. He recommends peaceable submission to government, promises oblivion of past offences, with the acknowledgment and ratification of every equitable right and immunity. The circumstance relative to the residence of a person of the blood-royal in Ireland, is reserved for future consideration.

The capital part of the King's answer, which referred to a charter of liberty, was quickly realized. The charter itself is still to be found in the Red Book of the exchequer at Dublin, and bears date the 12th day of November in the year 1216 †. It is essentially the same with that of England. It was transmitted to Ireland, executed in due form, in the month of February following, and was attended with a letter from the King, addressed to all Archbishops, Bishops, Abbots, Earls, Barons, Knights, free tenants, and to all faithful subjects, in Ireland ‡.

The leading idea in the policy of the English administration, with regard to Ireland, had hitherto been, that the Irish subjects should be put upon the same footing with the English; and the granting

* Prynne's hist. ad an. 1216.

† Appendix to vol. 1st of Leland's hist.

‡ Appendix, No. I.

granting of this charter, at a time when the power of Ireland was insufficient to extort it, is a liberal proof of the sincerity of this idea. It may indeed be urged, on the other hand, that the King was unable to retain his Irish subjects in obedience, without attaching them to his government by favour, and that disaffection or revolt would have been the consequence of a refusal of privileges bestowed on his subjects of England. The doctrines of civil policy were still imperfectly understood. The interests of the two nations had, in no instance, been found to interfere. Many advantages were anticipated, some had been felt to result from their friendship; and the most effectual method of promoting that friendship, was to confer the same immunities on both.

CHAPTER

CHAPTER III.

English Colonists assume the Manners of the Irish—Weakness of the Executive Department of Government—Henry III. shares the Sovereignty of Ireland with his Son Edward—Nature of that Settlement—Distracted State of the Kingdom—Statutum Hiberniae—The Statute of Merton, and other English Acts of Parliament of Authority in Ireland—Irish petition for an Act of Naturalization—First Irish Parliament. Scots Invasion—Extortion of Coigne and Livery—Irish Palatinates—Measures of Edward III. to humble the Irish Nobles—First Royal Application to the Parliament of Ireland for Money—Civil Arrangements—Absentees commanded by Proclamation to repair to Ireland with the Duke of Clarence—Statutes of Kilkenny—Revenue.

KING JOHN had scarcely left Ireland when the Irish chiefs renounced their allegiance, reassumed their independence *, and commenced their cruel and irregular wars against one another, and the English colonists. The distracted state of affairs in England, during the minority of Henry III. did not admit any effectual interposition to restrain these disorders, and Ireland became a scene of bloodshed and anarchy. The English planters were not contented with repelling the attacks of the Irish, and with defending their own territories; they longed to possess the lands of the chiefs they vanquished. They were even
tempted

* Davies, p. 22.

tempted to imitate their manners, to practise their oppressions, and to affect their independence. It seems to have been the policy of the court of Henry, perhaps with a view to forward the reduction of Ireland, to encourage these encroachments, by granting reversions of the lands of the Irish to proprietors of English extraction *. If donations of this sort were not directly illegal and unjust, they must be defended on the principle, that the Irish had forfeited their claim to the faith of treaties by their rebellion. To make farther trial of their loyalty, and perhaps to justify other forfeitures, Henry afterwards summoned his vassals of Ireland to attend him in an expedition against the Welsh †. Though the summons was directed to all vassals, both of English and Irish race; and, though large rewards were promised, to be realized in ample portions of the lands which might be conquered by their aid; yet, so little was the royal authority respected, that one chief only ‡, with his followers, repaired to the royal standard.

These disorders originated in the weakness of the executive power. The Lieutenant was often an inhabitant of Ireland, and had an interest to connive at the depredations of his countrymen. He was never supported by a sufficient force to punish the guilty and to protect the innocent. It appears that the English laws

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* Henry granted the reversion of the kingdom of Connaught to Richard Burgo; but the inhabitants of that district refused to recognise the grant, and elected for their King the brother of their former Prince. *Leland, v. 1. p. 207.*

† Rymer, tom. 1. p. 1.

‡ Fedlim Prince of Connaught. The King had recognised the election of the people,

were not even generally known, and that the English Lords opposed the execution of them, when they were known. Henry, by a letter addressed to his deputy, dated the twelfth year of his reign, commands him to assemble the inhabitants of the different counties, that they might hear the laws of King John read, and that they might learn to observe them. By another letter, written the thirtieth year of his reign, he enjoins his Barons of Ireland to permit the laws of England to be put in execution *. It would appear that these Lords were chiefly averse to the execution of the English laws respecting succession, and that they were in use, on the death of a chief, to make seizure of his lands, to the prejudice of his heirs, or of his successor by election. Hence the frequent and earnest applications from the Irish for admission to the privileges of English subjects; and hence the frequent royal patents bestowing these privileges on those who were judged to merit them.

To remedy, in some measure, these inconveniences, at least to remove the temptations which induced the deputies sometimes to overlook the violation of the laws, the King adopted first the system of appointing only Englishmen of rank to that high station †, and afterwards transferred the government of Ireland to his son Edward ‡.

This settlement on Edward was similar to that which had been executed by Henry II. in favour of his son John, and amounted to no more than a temporary provision for the household of the Prince. He was entitled to the revenue resulting from the lands; but

* Pryn. animad. p. 254.

† Borlase, p. 24.

‡ Rymer ad an. 1254.

but it is stipulated that the donation should not imply an alienation of them from the crown. 'Ita tamen quod praedictae terrae nunquam separentur a corona, sed integrae remaneant regibus Angliae in perpetuum.' No mention is made in the charter of any political jurisdiction conferred along with the lands; and, if Edward assumed the government of Ireland in consequence of this transaction, as is probable from the circumstances, that the island was called the land of the Lord Edward, and the civil officers were called the officers of the Lord Edward*, he must have done so on account of the intimate connection which was supposed to subsist between property and civil power, or because the King spontaneously devolved on his son part of the cares of royalty which were burdensome to himself. It is certain, that Edward did occasionally interfere in the government of Ireland; and happy had it been for that country, if a person of his age and vigour would have dedicated his time and attention to that important business. But his arrangements were sometimes disconcerted and defeated by the jealousy of the party that attached itself to the King; and the wars of France and Palestine soon pre-
sented

* Davies, p. 25. The royal writs sometimes controlled and superseded those of the Prince. The King recalled the grant of some lands which Edward had conferred on the Bishop of Waterford, 'contra leges Angliae,' and reconveyed them to the bishop of Lismore, their just proprietor. *Prynne anim.* p. 255. When Edward, in consequence of the settlement made upon him by his father, pretended to remove the Lord justice, and to put castles and places of strength into other hands than those appointed by the crown, the King, by the advice of his English barons, sent orders to the deputy, archbishops, bishops, barons, and knights of Ireland, to pay no obedience to such mandates of the Prince. *Ware, Ant.* p. 99.

sented objects of ambition more suitable to the genius of a young and gallant Prince, than the tedious and painful cares which civilize and reform a corrupted and savage nation. During the long reign, therefore, of Henry III. * no progress was made in the reduction of Ireland. It remained in a state the most miserable and distracted, in respect of civil administration and internal convulsion, while the growing tyranny and insolence of ecclesiastics, who flocked in bands from Italy, to occupy the richest benefices, and to support the usurpations of the church of Rome, concurred to render the national calamity complete. Toward the end of this reign, the famous statute of Merton respecting bastardy †, concerning which, the doctrine of the canon law, and the opinion of the clergy of England, differed from the doctrine of the common law and the opinion of the nobles, was transmitted to Ireland, where a similar controversy subsisted, and was adopted as the law of that kingdom.

This was the second instance in the present reign, in which the practice of the courts and the doctrines of the common law of England needed only to be known in Ireland in order to be obeyed. The Statutum Hiberniae which Henry ‡ ordered to be observed

* From 1216 to 1272.

† Children born before marriage were by the canon law held to be legitimate, and were entitled to inheritance; but, by the common law, such children were reckoned bastards. The prelates urged, that the canon law should be adopted as the law of England; the nobles opposed the alteration, and returned this memorable answer:

“ Nolumus leges Angliae mutari.” *Statutes at large ad an. 1235.*

‡ Statutes of the year 1229.

served in that kingdom, is nothing more than an explication of the common law of England, with regard to succession and wardship in the case of several heirs-female. The Irish judges were uncertain how the law of England stood with regard to this article; and the statute bears, that deputies had been sent from Ireland to the King, in order to obtain information. The idea of considering Ireland as a kingdom separate from England, seems not yet to have been formed. The inhabitants of the Pale held themselves as much subjects of the crown and civil constitution of England, as the people of any province of that kingdom. They adopted its laws, and their nobles attended the councils of the King*. During the whole reign of Edward I.†, English acts were transmitted to Ireland, under the great seal, and ordered to be obeyed, by royal authority.

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* Several Irish ecclesiastics and nobles are found among the King's counsellors, in the beginning of the reign of Henry III.

† Davies, p. 122. The statutes of Merton (an. 20. Henry III.) of Westminster I. of Gloucester, and of Westminster II. were transmitted in this manner; *Prynne animad.* p. 253. and 258. That they were put in execution, is proved from the records of the Irish courts. *Hib. Harr.* part 2. p. 91. to 107. The statute of York, 12 Edward II. begins thus: 'Forasmuch as divers people of the realm of England and Ireland.' *Scire facias*'s were directed out of England to tenants in Ireland, returnable in England before the extent expired. Writs, *ad quod damnum*, were usually issued from the chancery of England, in cases of Irish lands, granted in mortmain to religious houses in England, directed to the justice of Ireland, *ad inquirendum*, which were executed by the said justice, and returned into England; *Hib. of Harris*, part. 2. p. 109. English acts, thus transmitted, were enrolled in the Chancery of Ireland, and copies of them, under the seal of that kingdom, were sent

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The cares of the government of England, and the variety and importance of the expeditions in which Edward I. was engaged against the Welsh and the Scots, left him little leisure to attend to the affairs of Ireland. The disorders of that kingdom continued to prevail, because the King, however well disposed, possessed not resources to establish that salutary policy which might be sufficient to remove them. The withholding from the Irish the benefit of the English laws, was one great cause of them; and, in the beginning of this reign, was made one of those general applications for the privileges of these laws, which were afterward so often and so earnestly repeated, and which, for many ages, except in particular cases, were as uniformly and unfortunately refused. To understand the nature of these applications, and the reasons of the conduct of the different parties concerned in them, it must be observed, that they originated from the native Irish, who resided within the territories of the Pale. The Irish beyond the Pale neither fought, nor would yet have received the customs and laws of England.

When the English invaded Ireland, they permitted many of the inferior Irish chiefs, with their dependants, to remain on their lands, and to retain their own laws. As the English interest gained strength, and the power of the Irish was so diminished, that

to each town and county, to be there published by the civil magistrate, who was also commanded to see them put in execution; *Records of the exch. Harris*, part 2. p. 139. In the Appendix No II. is found the writ which accompanied the statute of Merton.

that they were unable to assert their rights, and defend themselves, they were exposed to every species of rapine and oppression. When an Englishman had been guilty of the robbery or murder of a native of Ireland, he would only compensate his crime by a fine, according to the Brechon law. When an Irishman appeared before an English court of law as a prosecutor for an act of violence or injustice, the defendant, if an Englishman, contended that he was not entitled to the justice of that court. The records of many suits remain*, where the commission of the crime is admitted, but the prosecutor is deprived of the benefit of the law, because he had not been naturalized. Had the civil administration of Ireland possessed any vigour, such flagrant and impolitic partiality had not so long prevailed. But, as the crown inherited no means of supporting its influence, unless by accommodating its management to the inclinations of the English nobles of that country, every application from the Irish for a general naturalization was referred to their discussion. Their decision was uniformly unfavourable; because their interest and ambition, more powerful principles of action than justice or honour, were concerned that their possessions and their influence should be extended by the oppression of their neighbours, and that the naturalization of the Irish should not obstruct the course of that oppression.

In the fifth year of this reign, these miserable people repeated their humble petition to the King, supported by an offer of eight thousand marks, to gain his countenance to their application,
that

* Davies, p. 104. &c.

that they might obtain the benefit of the laws of England. And two years afterwards, they presented a second petition of a similar tenor. The answers of Edward to both these addresses still exist *. They breathe the same spirit, and demonstrate how much Kings sometimes accommodate their conduct to the situation of circumstances, in opposition to the principles of justice and humanity. In the former, he acquaints his Lieutenant, that he would willingly grant the petition of the Irish, provided it were agreeable to the loyal nobles and prelates. He intimates, at the same time, the propriety of negotiating for a greater sum of money, and some troops to be furnished by the petitioners, in case the favour should be bestowed. In the latter, he orders the Deputy to convene the nobles and prelates to deliberate on this important measure, and to transmit him their opinion for the regulation of his conduct. The resolutions of the Lords and Prelates seem to have been unfavourable to the application of the Irish. The latter, in revenge, flew to arms, and vented their rage against their oppressors, by some roving expeditions, which were soon suppressed.

Edward, a few years after this transaction, solicited first the clergy, and then the laity of Ireland, for a subsidy to defray the expences of his government. The former were refractory; but the latter presented him with a fifteenth part of their effects †. The English Princes had been accustomed to consult their nobles and prelates concerning matters of state and acts of legislation; but they had not yet learned the constitutional method of applying

* Rymer ad an. 1277. Prynn, animad, p. 257. † Leland, vol. i. p. 251.

ing to parliaments for money. The growing expences of administration, and the insufficient provision made for the support of royalty, soon rendered such applications necessary; and the representatives* of the people, who chiefly were called to realize them, naturally made their appearance in the national council along with them. The poverty of the crown occasioned the depression of the nobles and the exaltation of the people. The exaltation of the people checked the incroachments of prerogative, and preserved the liberties of England. Thus the British constitution, apparently the result of the most consummate political wisdom, and the accumulated experience of ages, appears, in some important articles, the offspring of accident, or of the progress of society and manners.

The extensive military operations of Edward obliged him to employ every expedient to collect troops; and we find, in the latter part of his reign, several requisitions for such supplies, directed to the people of Ireland. To render these demands more popular, he proposed to reform the civil government, and to repress enormities, by summoning a parliament; and this seems to have been the first assembly convened in that kingdom which deserved the name. Sir John Wogan, a man of ability and discretion, held the office of Deputy. All the Lords, spiritual and temporal, were ordered to give attendance; and writs were issued to the sheriffs commanding them to return two knights for each county and liberty. Many of the members summoned did not appear, and none of their acts have been entitled to a

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place

* The representatives of the English boroughs made their first appearance in parliament an. 1295, the 23d year of Edward I.; *Brady of boroughs*.

place among the public statutes. A record, however, of their proceedings has been preserved in the archives of the church of the Holy Trinity at Dublin *, and we find them well calculated to remove the disorders which then prevailed. Three new counties were erected in Meath, Ulster, and Kildare †. The Lords marchers were commanded to attend to the execution of their office, on pain of forfeiture. Tenants of every degree were enjoined to provide arms, and to exercise themselves in the use of them. All Lords were prohibited to wage war, unless by authority of the Deputy, and were to be attended by no more retainers than they could support. No truce was to be made with the Irish, but what was general and equal, and, when made, was to be observed with honour and fidelity. But the most remarkable of their constitutions is, that none of the inhabitants of the Pale should adopt the dress and tonsure of the Irish, on pain of forfeiting the rights and privileges of Englishmen. The English on the borders, it would seem, found more security in passing for Irishmen, than from the protection of the law ‡.

On the accession of Edward II. ||, Gaveston was made Deputy; and, from his activity and ability, much reformation was expected. The enmity of the English nobility, to whom this favourite was obnoxious, obliged him to submit to this temporary banishment; but the

* Leland. vol. 2. p. 508. † The county of Connaught is found in the records of this reign; *Harris, Hib.* p. 68, part 2.

‡ The Irish Lords appear to have attended their early parliaments in arms, and to have been escorted by their retainers; for, in one of these assemblies, held at Dublin in the year 1315, Camden relates, that no business was done, but that the legislators ravaged the country on returning to their habitations.

the attachment of the King recalled him to England before he could make any considerable progress in restoring peace and good order to Ireland. Sir John Wogan was re-appointed to the office of Lieutenant, but without being provided with sufficient resources to enforce the observation of the laws he had enacted. The country was distracted by intestine disorders. The English Lords made war against one another, in defiance of all authority and law, and every species of oppression prevailed.

The feeble administration of Edward II. naturally prompted rebellions and disorders. The Scots reassumed their independence, and expelled the English from their country. They were not contented with this achievement; they aimed at retaliation; and undertook a formidable expedition into Ireland, to wrest that kingdom from the crown of England. Their designs were favoured by the greater part of the Irish chiefs; and the animosities of the Lords of the Pale afforded them the most flattering presages of success. Edward Bruce landed * in Ireland with a considerable army, and was soon followed by a reinforcement under his brother Robert. They over-ran and ravaged the greater part of the island, which, for three years †, exhibited one of the most deplorable scenes of bloodshed and desolation which history can present. The Scots, however, were furnished with no supplies or reinforcements, except what they could procure from the natives; and Sir John Birmingham, finally, collected a force sufficient to exterminate them.

Previous

* An. 1315.

† Cambden.

Previous to this aera, a most oppressive and illiberal practice had prevailed. The nobles resorted to the habitations of their dependants and vassals, and seized what part of their property they inclined to possess; sometimes they resided at their houses, and demanded such provisions as the people could supply; at other times, they distributed their retainers to live in a similar manner; and for none of these encroachments would they allow any compensation. Against these abuses* were issued the two first acts which appear in the Irish statute-book, passed in a parliament held at Kilkenny, in the year 1310, and which, with justice, assign to such practices the name and punishment of robbery. But, during the convulsions of the Scots invasion, a new and worse species of oppression was introduced, which, though then justifiable, perhaps from necessity, continued for many years, when the necessity no longer existed. This was the famous extortion of *coigne* and *livery*, by which the inhabitants of every place, through which an army passed, were obliged to provide subsistence for the troops, without being entitled to any indemnification. The Irish taxes were not equivalent to the ordinary expences of government, and it was necessary, that an army should sometimes be supported for the safety of the state. But, in future times, the nobles, under pretence of preserving the peace, wantonly oppressed their vassals, many of whom voluntarily resigned part of their possessions, in order to be exempted from a burden so intolerable. Though many statutes were enacted against this practice, totally inconsistent with the liberty of the subject,

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* Called *Cosbery*; Coke, part 4. p. 358.

it seems not to have been abolished till the tenth of Henry VII. *, when an act was passed, reviving the penalty of a statute of Henry IV. †, by which it was made treason, and ascertaining the rates, according to which the troops were to be maintained. By another act of the same reign, the King was allowed a subsidy of 26 shillings and 8 pence out of every hundred and twenty acres of arable land in the kingdom, to enable him to pay the army, without oppressing the people, and to remove all pretext for living at free quarters.

The introduction of *coigne* and *livery* produced universal corruption, and nearly reduced the inhabitants of the Pale to the barbarous state of the wild Irish. The nobles affected the parade, and claimed the independence of the Irish chiefs. They expelled, by oppression, many of their countrymen from lands which they appropriated and repeopled with Irishmen, from whom they demanded all the Irish exactions. They adopted even the Irish laws, and became, in customs, manners, dress, language, and arms, almost wholly Irish.

Amidst so much ignorance and degeneracy, we survey, with a mixture of pleasure and surprise, the institution of the University of Dublin ‡. But, as this seminary owed its origin to the zeal and patriotism of two ecclesiastics ||, rather than to the spirit of the times, it attracted not attention sufficient, in a barbarous age, to introduce any degree of knowledge and refinement. It was reserved for Queen Elizabeth, to render it an illustrious and use-

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* An. 1495.

† Davies, p. 30. This statute is lost.

‡ An. 1320.

Archbishops of Dublin.

ful feat of learning. Commotions of every sort continued to prevail, provincial wars, family feuds, prosecutions for heresy and witchcraft, with a disregard of all legal and royal authority. Edward III. who had now filled the throne, condescends even to intreat his Irish nobles to consult the peace of the state, and to obey the laws *.

Such language from the crown will not occasion much surprise, when we consider that its authority was now nearly extinguished in Ireland. No less than nine counties Palatine † had been established by nobles of English extraction, founded partly on usurpation, and partly on extravagant grants from the crown, which occupied more than two third parts of the territory of the Pale. These nobles exercised every royal jurisdiction. They created barons and knights, erected courts, civil and criminal; appointed judges and sheriffs, and made peace and war by their own authority. The King's writs were no longer respected through the whole of these counties. Their authority was confined to the lands of the church, and in them only was honoured with obedience. Hence, in these counties, two sheriffs were appointed, one of the liberty, nominated by the Lord; and another of the cross, or the land of the church, nominated by the King ‡. The great body of the people was reduced to a state of slavery, deprived of all conception of common interest, common law, and common defence. The power of an absolute and capricious chief was ever before their eyes; from whose disposal nothing could shield their fortunes and

* Rymer ad an. 1327.
Meath, Ulster, Desmond, and Ormond.

† Carlow, Wexford, Kilkenny, Kildare, Leix,
‡ Davies, p. 140.

and their lives. The exercise of royal jurisdiction was restricted to the ninth part of the island; for it extended only over a third part of the Pale, which scarcely formed a third part of the kingdom.

As soon as Edward III. had emancipated himself from the influence of his mother and her favourite, he seemed resolute to take such measures, with regard to the government of Ireland, as might recover his authority. His deputy, Anthony Lucy, arrested some of the great Lords, on suspicion of treasonable correspondence with the Irish, and, after trial, brought one of them to the block. He resumed, by the advice of his English parliament, the exorbitant grants of land which had been made during the first years of his reign, and proposed to visit the island * in person. All the English Lords who possessed estates in it, were ordered to prepare for attending him, and all the shipping in its ports was commanded to assemble at Holyhead to assist in transporting the royal army †. Edward, however, was more solicitous to regain the dominion of his grandfather in Scotland, than to re-establish his authority in Ireland; so that the armament provided to reduce the latter kingdom, was suddenly and unexpectedly turned against the former. No farther attention was paid to the affairs of Ireland, than to send a commission to the prior of St John, then Lord Lieutenant, to negotiate

* Rymer, tom. 4. p. 476. No act is found in the statute-book relative to this resumption, though the King's despatch bears that it was the result of a resolution of parliament.

† Ditto ad an. 1332.

negotiate peace with all the enemies of government, whether English or Irish, on the best terms he could procure; and to write letters to the loyal nobles and knights, enjoining them to support his negotiations*. The natural consequences of such impolitic management soon followed. The Irish invaded the extensive demesnes of the Earl of Ulster on the death of that Lord; passed the Bann, and repossessed themselves of the whole province. Two adventurers of English extraction made a similar inroad into the territory of the Earl of Connaught, who still retained some respect for the royal authority, seized his lands, and re-established, in that quarter, the Irish dress, language, customs, and laws. These invaders wished to extinguish the memory of a connection with England, and even changed the names of the lands they had appropriated†.

Edward, impatient that his authority should be so lightly treated, proceeded to greater severities. To humble the haughty nobles, and to circumscribe their exorbitant power, he resumed not only the grants of land passed during his own reign, but those also made by his father‡; and he demanded immediate payment of all quit-rents due to the crown. Ireland was thrown into combustion. A parliament was summoned to meet at Dublin. The nobles refused to attend. They went farther; they convened, by their own authority, a parliament at Kilkenny. They stiled themselves "The Prelates, Nobles, and Commons of the land," and began to prepare a remonstrance to the crown. The

* Rymer, tom. 4. p. 526.

† Davies, p. 198.

‡ He issued an ordinance, that no person possessed of lands in Ireland, should be admitted into any civil office in that kingdom.

The articles chiefly insisted on are, the incapacity and avarice of Lieutenants, their inattention to the defence and revenues of the public, the misrepresentations they had transmitted of the loyalty of the King's subjects, and the injustice of retracting grants of land which had been merited by eminent services to the state*. Edward soon perceived that the spirit of the Irish nobles was not to be repressed by threatening; and an expedition into France, which he had projected, prevented the employment of more effectual means. He judged it proper, therefore, to assume a milder tone. He ordered inquiry to be made concerning the abuses complained of. He promised the restoration of all the lands which had been reclaimed, and every reasonable allowance with regard to the arrears of debts payable to the crown. In compensation for these marks of his favour, he demanded that the Irish barons should furnish some troops to complete his army destined for the French war†.

Desmond and Ulster, two Irish Lords, accompanied the King, and distinguished themselves by their valour in the war of France; but their obedience to the royal requisition is to be imputed more to their fear of forfeiture, than to their zeal for the service. They had refused to listen to a summons of Lord deputy Ufford, to attend a parliament appointed to meet at Dublin, and had presumed, by their own authority, to hold another parliament at Calan, in opposition to that of Ufford. The vigour and spirit of the deputy would not suffer such an insult to legal authority to pass unpunished. He marched an army against these Lords;

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* Pryne, animad. p. 279.

† Rymer, tom. 5. p. 333.

he seized their castles and their lands, and obliged them to seek safety by flight. They presented themselves in a favourable minute before Edward, when about to depart for France; and the offer of their assistance was sufficient to procure their pardon, with the restoration of their estates.

In the year 1348, an attempt was made, for the first time, in Ireland, to raise money by an application to parliament. The oppressive and violent mode of maintaining an army, by permitting soldiers to live at free quarters, had incurred universal reproach; and an act was passed, in a parliament held this year by Deputy Birmingham at Kilkenny, to abolish that practice, by granting a subsidy which might render it unnecessary. It was resolved, that two shillings should be paid to the crown for every carucate* of land, and that two shillings in the pound should be advanced by every subject possessed of personal estate equivalent to six pounds †. Poor as Ireland then was, we can scarcely suppose this impost not sufficient for the purpose of supporting such occasional force as was usually maintained in that kingdom. But it seems to have been either not regularly levied, or not to have been repeated; for the oppression of coigne and livery continued to prevail. The clergy, in a body, refused obedience to the edict of parliament, and threatened with excommunication every incumbent

* "A cantred or century, which is the same with the Saxon hundred, is no way ascertained by any fixed measure. And, as the quantity of a cantred is variable, so is that of a carucate or plowland, which is greater or less, according to the quality of the soil. It is commonly reputed to be such a portion of land as can give employment to one plough through the year;" *Ware*, p. 31.

† Leland, vol. 1. p. 310.

cumbent and lay-tenant on church-lands who should pay the tax. The authority of parliament was compelled to yield to the opposition of the church, and the laity, perhaps, scrupled to furnish their share of a subsidy, from the payment of which so great a part of their fellow-subjects were to be exempted.

This incident demonstrates, that the Irish parliaments had not hitherto attained that supreme legislative power which was requisite to insure proper respect for their acts and resolutions. They were little more than occasional conventions of peers and prelates, who met to deliberate about public affairs. They seem to have had no regular constitution, nor to have admitted the commons to any share in their deliberations *, though the latter had formerly been summoned to a parliament of Edward I. They had never exercised any judicial capacity in reviewing the decisions of their courts of justice; and suitors in these courts had been in use to have recourse to the courts of England for redress. By a royal ordinance † of the year 1356, the parliament of Ireland is enjoined to take cognizance of the judgments of the inferior courts of that kingdom, for the more speedy administration of justice, and for the exemption of the subject from unnecessary trouble and expence; but the option seems to have remained with the party who thought himself injured, to seek redress in England or in Ireland.

Edward adopted other salutary arrangements relative to Ireland. By the authority of his English council, he ordered the Lieutenant of that kingdom to issue proclamations forbidding all Lords, prelates,

* Coke, inst. 4.

† Prynne, animad. p. 286.

prelates, knights, or other subjects, who could be useful in the defence of their country, by their counsel or their arms, to absent themselves, on pain of forfeiture and imprisonment *. The English connections of the inhabitants of Ireland, added to the disorders with which that country was always in danger of being harrassed, had induced many of the people of fortune and rank to relinquish their habitations, and leave the defence of them to their vassals and retainers. To add vigour and popularity to the administration of government, he was careful to appoint deputies of prudence and ability, among whom the patriotism and frugality of Sir Thomas Rokesby has been universally celebrated †. But the most applauded of all his measures was one similar to those which had been embraced by Henry II. and Henry III. namely the sending of a Prince of the blood into Ireland to reform the civil government, and to superintend the regular execution of the laws. Edward resolved to send thither his second son, the Duke of Clarence, and to entrust him with such ample authority as might be requisite to accomplish the great ends in view ‡.

Clarence

* Rymer, tom. 5, p. 749.

† He remonstrated particularly against the arbitrary exactions, by which many of the nobles of Ireland enriched themselves, and he practised the doctrine he inculcated. "I may be obliged," said he, "to eat and drink from wooden dishes, but I will pay gold and silver for my provisions." *Cambd. an. ad an. 1356.*

‡ Beside the common methods employed by the Kings of England for the reduction and pacification of Ireland, they were in use to form, with the aid of their council, short occasional codes of laws for the regulation of the affairs of that country, called *Ordinationes de statu Hiberniae*. In the 17th year of Edward I. was composed

Clarence had great personal interest in Ireland. He had married the daughter of the Earl of Ulster, and claimed, in right of his wife *, both the lands annexed to that title, and those belonging to the lordship of Connaught. Proclamations were issued in the counties of England, commanding all persons who had estates in Ireland to repair thither to defend them under the Duke of Clarence, which, if they failed to perform, their estates would be granted to others of his Majesty's faithful subjects †. Clarence, escorted by many Lords and knights of eminence, and an army not exceeding 1500 men, landed in Ireland in the year 1361. To prevent the enormities consequent on living at free quarters, the pay of the officers and soldiers was fixed by authority, of which Sir John Davies has published a curious register ‡,

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posed the first *Ordinatio*; Eng. sta. In the 17th year of Edward II. was composed by the King and his council at Nottingham, a second *Ordinatio*; *Prynne, animad.* p. 264.; both are calculated to prevent the oppression of the nobles, and of men in office, to secure the liberty of the subject, and the execution of the law. In the 31st of Edward III. another *ordinatio*, but much more particular and complete, was transmitted to Ireland, and ordered to be observed by royal authority; *Animad.* p. 287. *Eng. stat.* The *ordinatio* of Edward III. was approved, ratified, and transmitted again by Richard II. in the 17th year of his reign; *Animad.* p. 294. These *ordinationes* had the force of laws, and the first and last have accordingly been honoured with places in the Statute-book.

* She was only child of Lord William Bourke, slain by treachery at Knockfergus, after whose death the Irish seized his lands; *Davies*, p. 31.

† Rymer, tom. 6. p. 325. This proclamation was issued by authority of a parliament assembled at Guilford. The proclamation had the effect of a law in Ireland, and several forfeitures proceeded upon it; *Mayart in Harris*, p. 113. &c. An English parliament, a few years after, restricted the forfeiture to two thirds of the produce of the lands.

‡ Pag. 32. Appendix, No III.

preserved in the Remembrancer's office in England. To supply money for paying the army, both the laity and clergy granted a subsidy, payable in two years*.

Clarence seems not to have been possessed of force sufficient to undertake the reduction of Ireland, though Edward issued a second proclamation, after his departure, commanding his subjects connected with that country, who had hitherto neglected their duty, immediately to repair to the standard of his son†. The Duke had conceived some unlucky antipathy against the old English planters; and, as he had forbid them, by proclamation, to enter his camp, though he afterwards recalled that proclamation, and solicited their aid, few of them seem to have joined his army. Having, therefore, expelled the Irish from the province of Leinster and the coasts of Ulster, and having published an edict of the King and council of England, prohibiting all dissensions among the inhabitants of the Pale, under the penalty of imprisonment‡, he returned to England, after he had been about three years in Ireland.

The Duke revisited the latter kingdom, in the year 1367, when he bent his chief attention to the improvement of the civil government. He summoned a parliament to meet at Kilkenny, which, perhaps, may be called the first regular one which had been held in Ireland. Writs were issued to the commons, as well as to the prelates and peers; and we find, for the first time, their representatives giving their attention and concurrence to the business of the legislature. The reformation of abuses was the
first

* Davies, p. 35.

† Rymer, tom. 6. p. 350.

‡ Rymer, tom. 6. p. 442.

first subject of consideration. All Irish customs, manners, and apparel were prohibited, under penalty of forfeiture of goods and imprisonment; and the use of the Brehon law was to be punished as high treason. No subject was to make war or peace by his own authority; and if he levied coigne and livery, he was to be prosecuted as a traitor. All intercourse with the Irish was interdicted, which might tend to introduce their manners and customs among the English. To these were added two new regulations; that the royal liberties should be no longer sanctuaries for malefactors, but the sheriffs might there apprehend them, and bring them to justice; and that, to prevent the partiality of the nobles in raising troops for the service of the public, four arbiters should be appointed in each county, who should determine the number, quality, and armour of the men to be levied*.

Such were the institutions of Kilkenny, so much respected in Ireland, so frequently referred to in the course of her history, and so often repeated and enforced in her statute-book. Happy had it been for that kingdom, had their authority extended over the island, or had the civil government possessed sufficient vigour to secure their obedience. But they permitted the great body of the Irish to remain in their former state of barbarity and ignorance. They comprehended not even the Irish of the Pale, and had scarcely any other object in view than to prevent the subjects of English extraction from degenerating into Irish. They could not, indeed, have failed to accomplish this end, had they been carried into execution; but the sentence of excommunication denounced by the

* Davies, p. 123. Leland, vol. 1. p. 320.

the clergy against their violation, though the most decisive authority by which they were supported, yet was an insufficient sanction to prevent the transgression of them. The Duke of Clarence had not arrived in England before the useful laws of Kilkenny were treated with contempt, and the English nobles recommenced their violences against one another.

The Irish chiefs took advantage of these disorders, and invaded both Munster and Leinster. Sir William Windsor called a parliament, which granted a subsidy of five thousand pounds* for the support of the war. The King repeated his proclamation for absentees to appear for the defence of their country; but they refused to obey, and he was obliged to relinquish the scutage of their lands, which they were unable to pay. Such was the horror conceived in England of the inhumanity and barbarity of the Irish, that Sir Richard Pembridge, an Englishman, and warden of the cinque-ports, on being appointed Lieutenant, declined to accept the office, because he considered the Irish as savages, and the office as a banishment†.

During the reigns of Henry III. and of the three Edwards, the revenue of Ireland, which, even in the time of Edward III.

* This sum was granted in two parliaments, or in different sessions of the same parliament. The first, held at Kilkenny, granted L. 3000; and the second at Ballydoil, granted L. 2000; *Prynne, animad.* p. 304.

Three years afterward, Edward gave licence to import from Ireland 400 quarters of corn, to be sold in the county of Westmoreland; *Prynne, ib.* This licence is from the King, by which it appears, that he considered the regulation of imports and exports as part of his prerogative.

† Coke inst. 2. p. 48.

ward III. amounted only to ten thousand pounds a year*, was inadequate to the expence of government, and the treasury of England had been in use to supply the deficiency †. The English commons had complained of this burden in the year 1347, and the parliament now resumed the consideration of it ‡. The King ordered an Irish parliament to be summoned, the state of the revenue to be laid before them, and demanded, that a sum of money should be granted equivalent not only to the maintenance of their own government, but to assist his Majesty in carrying on his foreign wars, in the success of which all his dominions were concerned.

The parliament assembled; but they refused to provide any subsidy; because they alledged their poverty was so urgent, that they were unable to pay it. Edward was provoked, and had recourse to an extraordinary exertion of his prerogative. He commanded two ecclesiastics to be elected by the bishop and clergy of each diocese, two laymen by the land-holders of each county, two burgeses by each borough, and that these representatives should repair to London, to deliberate with him and his council concerning the state of their country, and the granting of money to the crown. The

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* Davies, p. 39.

† The expence of the Irish government for the forty-seventh year of Edward III. was no more than L. 11200; so that the commons of England would have a deficiency of L. 1200 to supply. This would appear no small sum, when the expence of the government of England did not exceed L. 57,714 : 10 : 10 (*Rymer*, tom. 10. p. 113. *Hume's hist.* vol. 3. p. 126. 8vo.) 25 shillings of Edward's money were equal to L. 3. of ours in weight, and its value was, at least, three times greater.

‡ An. 1376. 50th of Edward III.

unanimous answer of the Lords and Commons to this strange requisition still remains, and is conceived in a firm and manly strain. They declare the royal requisition contrary to law; that their compliance with the tenor of it was mere complaisance; and that, though they had elected representatives, had sent them to London, and would permit them to deliberate on the state of the nation; yet that they would allow them to undertake no discussion relative to money, and would advance no subsidy they should promise to pay. They protested farther, that their present election should not operate as a precedent against their rights and privileges, and the constitution of the national assembly of their country*.

This curious political transaction will admit no rational interpretation which does not involve the supposition, that Edward was of opinion this assembly might be considered as a parliament, and that their resolutions might have the force of laws in Ireland. He assembled them at Westminster, remote from their constituents, and contiguous to his court; because he could there more easily manage their dispositions to second his views. He found, however, their powers so limited, and the spirit of their countrymen so refractory to his wishes, that we need not wonder he neither kept them long assembled, nor afterwards had recourse to a similar expedient. It cannot be supposed, that Edward and his ministers were not sensible of the illegality of their procedure; but they concluded, perhaps, that ideas of legal government were still

* Memoranda de Hibernia, *Leland*, appendix vol. 1. p. 2. *Prynne, animad.* p. 305. A writ of Edward remains of this year, by which he grants his deputy L. 500 annually to maintain his dignity, and twenty horsemen for a guard; *Prynne, ib.*

still so imperfect in Ireland, it would encounter no objection. Experience convinced them, that they had made an erroneous estimate of the understandings of the Irish of English extraction*.

CHAPTER

* In the reign of Edward II. the nobles of Ireland had been called to attend a meeting of the English parliament, to consult about the affairs of that kingdom. Before the expedition of the Duke of Clarence to Ireland, a proclamation was issued, addressed to all Irish proprietors of land then residing in England, commanding them to appear in person, or by proper proxies, before the King and council, in order to give information and advice relative to the affairs of Ireland; *Prynne animad.* p. 296. *Coke*, part 4. p. 350. But no example appears, where any other King attempted to constitute any thing like a legislative court of Irishmen in England. Nor is any satisfactory evidence to be found, that the Lords and Commons of Ireland, as Irishmen, were ever admitted members of the houses of Parliament of England.

In the 34th year of his reign, two acts were passed in the English parliament, which had Ireland only for their object. By the first, "All merchants are permitted to come into Ireland with their merchandises, and thence freely to return without fine or ransom, except paying the King's duties." By the second, the people of England, who have lands in Ireland, are allowed "to bring their corn, beasts, and victuals, into the land of Ireland, and from thence to recarry their goods and merchandises into England, freely and without impediment, paying their customs and devoirs to the King."

C H A P T E R I V.

English Act of Parliament relative to Absentees—English Parliament wish to be relieved from the Trouble and Expence of the Government of Ireland—Expedition of Richard II.—Political Regulations—Lieutenancy of Lord Furnival—Subsidies—Petition of Grievances—Irish Council refuses to acknowledge the Substitute of the Earl of Marche—Encroachments of the Irish—A Parliament—Lieutenancy of the Duke of York—English Statutes introduced by Acts of the Irish Parliament—Judicial Proceedings—A Parliament—Society of St George—Two Rival Parliaments.

THE accession of Richard II. *, a young, dissipated, and violent Prince, promised little reformation in the affairs of Ireland. The parliament of England continued to complain of the burden of the Irish government, which they were called partly to support. The Irish of the Pale retaliated, by representations of the detriment they sustained by English absentees. The English parliament had already made the affairs of Ireland the subject of their deliberation and advice †, and the Commons had,

* An. 1377.

† Pag. 43.

had, for a considerable time, been in use to advance money toward its reduction. That body now ventured on a bolder measure, which amounted to a declaration of their right to exercise civil jurisdiction of every kind in Ireland. They passed an act which disposed of the property of the subject, by granting to the crown two third parts of the produce of the lands of absentees, in order to raise a revenue for support of the Irish administration *. They gave permission to proprietors of land to dig, during six years, on their own estates, for gold and silver, and to fabricate these metals into coin or plate at the King's coinage, on paying the fees, and a ninth part of the produce to the King; but the metals were not to be exported, except to England, on pain of forfeiture. They granted farther a free trade between Ireland and Portugal; that the merchants of Lisbon might directly, and without molestation, convey wine and other merchandize to Ireland, and that Irish commodities might, with equal facility, be transported to Lisbon.

It is remarkable, that this act was obtained by the solicitation of the Irish, and seems to have been held by all parties a remedy adequate to the evils complained of. The English parliament beheld a prospect of being relieved from the expence of levying money for the benefit of Ireland. And the Irish of the Pale were gratified with the hope of seeing their country replenished with useful and powerful inhabitants, who would return to their estates, or send people to defend them, which was

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* The estates of absentees on the service of the crown, of students at the English universities, and of those who had leave of absence from the King, were to pay one third part of their produce; *Rymer*, tom. 8. p. 116. *Prynne*, *animad.* ad. an. 1380.

an alternative of the act, rather than permit them to be subjected to an impost so exorbitant. The English parliament, perhaps, considered the part of the act relative to absentees, as founded on the principles of reason and justice. The Irish parliament did not remonstrate against any part of it; because, whatever danger it might infer to their constitution, it was a temporary benefit to their country. The clause concerning absentees continued in force, and was frequently put in execution, till the Irish act of the 28th of Henry VIII. extended its doctrine, and conveyed their estates to the possession of the crown*.

The eagerness of the parliament of England to be delivered from the trouble and expence of the government of Ireland, and the low estimation in which they held the sovereignty and resources of that kingdom, are palpably marked by a singular incident, which, at this time, occurred. Among other symptoms of weakness and indiscretion, by which the character of Richard is distinguished, he had conceived the most violent attachment to a favourite, Robert Vere, Earl of Oxford. In the excess of his affection, he wished to elevate this Lord to a rank approaching royalty itself, and Ireland appeared to be the best theatre for displaying the extent of his royal favour. He issued, therefore, two grants; by the first of which Vere was created Marquis of Dublin; by the second Duke of Ireland; and to each was annexed the entire dominion of that island; reserving only lige homage to the crown of England. The parliament of England approved both these grants; and consented to furnish 500 men at arms,

* Davies, p. 223. Irish statutes. Records in Hib. Har. part 2. p. 131.

arms, with 1000 archers, for two years, to enable him to realize them *. But the revolution in England, by which Oxford was banished, and all his plans of ambition defeated, prevented the execution of this design †.

Richard, irritated by the complaints of his parliament, and by the representations of his Irish subjects, resolved to inspire some vigour into the government of Ireland. He caused his Lieutenant, Sir Philip Courtney, to be arrested for mismanagement and oppression ‡. An order was issued for levying the tax imposed on absentees. He sent Sir Nicholas Dogworth, a man of ability and discernment, to inspect the state of the country, and to inquire into the conduct of the officers of the crown: And he proposed to put the administration into the hands of his uncle the Duke of Gloucester. He superseded even this appointment, and resolved to repair in person to Ireland, attended by such a force as all his enemies should not be able to oppose. Historians, indeed, insinuate, that the vanity of recommending himself to the electors of the German empire, by some military operations of eminence, was more the motive of this expedition than the reduction or settlement of his Irish dominions.

Whatever were the intentions of Richard, the parliament of England seconded his operations with vigour and effect. He landed at Waterford || with 4000 men at arms, and 30000 archers, an army far superior to any which had hitherto appeared in that

* Davies. p. 43. Coke, part 4. p. 357. The men at arms were allowed 12 pence each a-day, and the archers 6 pence. Perhaps these soldiers were obliged to furnish their arms and accoutrements.

† Leland, vol. 1. p. 335.

‡ Davies, p. 225.

|| October 1394.

that country, and adequate to any design which could be proposed to be accomplished. All the Irish chiefs instantly submitted, and would have accepted any terms which the King could reasonably offer. The proper and effectual settlement would have been to have extended the benefit of the English constitution to the whole kingdom, to have erected courts of justice, appointed judges where they had not yet appeared, and to have left in the hands of the deputy a force sufficient to preserve peace, and to secure the execution of the laws. But the Irish of the Pale opposed such a profanation of their privileges, and could not endure that they should be humbled to a level with men whom they reputed savages, and their bitterest enemies. To gratify all parties as far as possible, Richard adopted the following arrangements.

To prevent the disorders and commotions which had so often arisen from animosities and contentions between the native Irish and those of English extraction in the province of Leinster, where the English power and interest chiefly prevailed, he proposed to remove the former from their habitations, and, in compensation, to gratify their chiefs with pensions*, and a grant of the lands they should conquer from their countrymen of the other provinces in any future wars. Submissions, declared in the most formal and solemn manner, were accepted, from the other Irish chiefs; but, as these had proved feeble securities for the fidelity of Irishmen on former occasions, a writing was proposed, as something more authentic and obligatory. Papers called indentures were framed, containing the conditions

* Macmurrough chief of the Kavanagh was gratified with a pension of eighty marks per an.

ditions of submission, and the penalties to be incurred, in case of violation; and these, after being executed in due form by the parties, the King caused to be engrossed in a roll, testified by a notary, and delivered it with his own hand to the Bishop of Salisbury, then treasurer of England. The chiefs engaged for themselves, their heirs, their subjects, and their relations, to become vassals of the King of England; and no fewer than seventy-five independent heads of tribes made such declarations.

Every article of this pacification is stamped with inexperience and indiscretion. The treaty with the Leinster Irish was direct hostility against those of the other provinces; and the King could not expect fidelity from vassals whom he negotiated to exterminate. Nothing could be more illusory and insignificant than the additional securities proposed to be derived from indentures, however formally executed; as men void of honour will as little regard written engagements as words, when they can violate either with impunity. Richard, accordingly, after all his trouble and expence, left Ireland in the same situation in which he found it. He gained no revenue to the crown. He added not a single acre to the territory of the Pale. The Irish chiefs disclaimed their submissions as soon as he had set sail for England, and continued their former devastations and wars*. Even the Irish leaders of Leinster delayed to evacuate their lands, pretended various reasons for their conduct, and finally took arms to support their pretensions.

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Richard,

* Davies, p. 59.

Richard, highly incensed with such undutiful behaviour, returned * to Ireland with a resolution to chastise it with severity. He was attended by an army little inferior to the one he led on his former expedition †; and, although he was reduced to much inconvenience and distress in his march from Waterford to Dublin by scarcity of provisions, and the brisk occasional attacks of the Irish; yet it can scarcely be doubted, that he would have vanquished all his foes, had he not received, at Dublin, the news of the invasion of the Duke of Lancaster. He immediately relinquished all intention of prosecuting the Irish war, and returned to England. He wished to revisit Ireland, to shelter himself against the violence of his enemies; but they found means to accomplish his deposition before he could withdraw himself from their power. His death soon succeeded his deposition.

On the accession of Henry IV. ‡, some attention was paid to the state of Ireland, though the ambiguity of that monarch's title to the crown of England chiefly attracted his attention to the operations of the latter kingdom. A subsidy payable in three years was granted by the parliament of England §, toward the support of the Irish government. The act against absentees was republished, and enforced by proclamation ¶; and the office of Lieutenant was conferred on the Duke of Lancaster, the King's second son, who was permitted to execute it by a substitute. For eight years, he availed himself of this privilege, during which the governors of Ireland, with difficulty, maintained the peace of the Pale against the incursions of the Irish, and a desultory invasion of the Scots.

The

* An. 1398.

† Earl of Totness in Har. Hib.

‡ 1399.

§ Leland, vol. 2. p. 2.

¶ Rymer, tom. 8. p. 116.

The arrival of the Duke of Lancaster at Dublin infused a temporary confidence into the minds of the loyal Irish, though he was attended only by a few troops. Complaints of abuses were heard with patience, and redress was promised. Several of the Irish chiefs of Leinster and Ulster repeated, with their usual insincerity, their promises of allegiance. Some insurgents of Wicklow*, who had taken advantage of the absence of the nobles in attending on the business of parliament, to make depredations on their lands, were seized and prosecuted; but, though they were condemned to suffer death and forfeiture, it was judged a measure too bold to put in execution any part of the sentence. The offenders were allowed to return to the peaceable possession of their estates. So totally relaxed was the civil government, that acts of violence and murder were sometimes committed on the bodies of magistrates†, in attempting to execute the laws.

Lancaster remained only seven months in Ireland; and, after his departure, the affairs of that kingdom were abandoned to the management of the English of the Pale. Though the statutes of Kilkenny had been revived, in a parliament held by that Prince at Trim, and the extortion of free quarters particularly prohibited; yet the necessity of collecting soldiers on sudden emergencies to repel the incursions of the common enemy, obliged the nobles to have recourse to that oppressive and illegal method of procuring subsistence. The English subjects had been forbidden to make peace or war

* Marl. apud Cambden.

† During a parliament held in the year 1402, says Marl. "In Urgalia Dominus Bartholomaeus Verdon miles, Jacobus Whyte, Stephanus Gernon, et sui complices, occiderunt Johannem Dowdal Vicecomitem Lowth,"

war with the Irish without permission of government; but their encroachments were so frequent and sudden, they had insinuated themselves so completely among the inhabitants of the Pale, that these prohibitions had become nugatory and impracticable. The English were constrained to negotiate peace with an enemy they could not repel, and against whom the civil power could afford them no protection. They purchased their favour, at least their forbearance, by annual pensions, called *black rents*, which exposed them to every species of extortion these savages might incline to exercise. It would seem that the regulations of the government of Ireland, at this period, were doomed by some fatality to consist of contradiction and absurdity. The English planters had their territories gradually circumscribed by the encroachments of the Irish, and they lived in constant terror of their rapacity and violence. Far from possessing any authority over them, they remained in perpetual fear of extirpation themselves; an event which might have been accomplished, had not the enmity of the Irish tribes against one another been as violent as their antipathy to the English. They opposed a general naturalization of the Irish, and would hardly excuse exertions of royal favour to individuals; yet, in such circumstances, did the parliament of Ireland enact a law * equally cruel, impolitic, and impracticable, "That no Irish enemy should be permitted to depart from the realm without a licence, authenticated under the great seal of the kingdom; and that any subject who would seize the person of an Irishman attempting to emigrate without such
license,

* 11. Henry IV. 1409. Leland, vol. 2. p. 8.

license, should be entitled to one moiety of his goods, while the other should be forfeited to the crown."

As this act was so little adapted to the situation of Ireland, or the circumstances of the English of that country, we may, perhaps, discover the genuine intention of the framers of it, by considering it as a sacrifice to the peace of England. It is, at least, certain, that the latter kingdom had, at this time, been over-run with Irish vagrants and adventurers, who, perhaps, could not easily procure subsistence amidst the depredations and convulsions of their own country, or who found England a more advantageous field for violence and imposition. By an act in the first year of Henry V. all such Irishmen are commanded to leave the kingdom, under penalty of forfeiture, and imprisonment during the King's pleasure *.

The ambition and warlike genius of Henry V. were too much gratified by the wars of France, to allow him leisure to attend to the administration of Ireland. On the death of Sir John Stanley, a few months after he had been appointed deputy, the Irish council proceeded to elect † into that office Thomas Crawly, who had been twice chancellor of Ireland, and was archbishop of Dublin. Crawly remained in office till the end of the year ‡, when he

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* Statutes at large. This act is explained and enforced by two others of Henry VI. lb. 1423. It is with some surprise we find among these rioters, Irish students at the English universities.

† On an unexpected vacancy of the office of Lieutenant by death, or otherwise, the Irish council were in use to elect a successor till the King's pleasure was known. This practice is explained and regulated by an act 33d Henry VIII.; *Irish statutes*.

‡ September 10. 1414. Borlase.

was superseded by Lord Furnival, whom Henry, with much discernment, had appointed to assume the reins of government. Furnival was well qualified for the station he held; and, if the foreign operations of the King could have permitted him to second the abilities of the Deputy with a proper force, the reign of Henry V. might have been little less memorable by the reduction of Ireland, than it has been by his victories in France. He held the office near five years, during which period, the English colonists experienced an interval of peace and security to which they had formerly been strangers. His first business was to repress the spirit of rebellion which appeared among the Irish of the borders, and those of the Pale. He collected what force he could procure in Ireland. He undertook an expedition round the English settlements, and every where repulsed or reduced the chiefs to submission. Even Macmurchad, the formidable chief of Leinster, who had resisted or eluded the arms of Richard II. and had hitherto maintained his independence, was compelled to acknowledge the sovereignty of the King, and to surrender his son as a hostage for his future fidelity*.

But Furnival could not extend his military operations against the Irish beyond the borders of the Pale. Considering the narrowness of the resources of that kingdom, and that he had prevailed with the subjects of it to despatch sixteen hundred men to assist the King in his wars of France, we shall find reason to wonder that he did so much. He incurred, however, the displeasure and censure of the Irish planters, because he could
devise

* Rymer, tom. 9. p. 287.

devise no other means of subsisting his little army, than by permitting it to live at free quarters. That necessity compelled him to connive at this illegal practice, seems obvious, from the frequent parliaments he convened, the long time they continued to sit, and the small sums of money he was able to procure from them. One parliament met at Dublin, sat there six weeks, was removed thence to Trim, where it sat eleven days, and advanced only a subsidy of 400 marks. Another parliament was assembled at Naas, two years afterward, from which he could procure no more than the sum of 300 marks*. If we reflect how inadequate these subsidies were to the expences of government, and that, beside his military operations, Furnival had incurred the additional burden of fortifying the city of Kilkenny with a wall, we shall perhaps be disposed to conclude, that the complaints against the integrity of this active and able governour, are not well founded.

The Irish held themselves entitled to some extraordinary mark of the royal favour, on account of the reinforcement which they sent to France. On the King's return, therefore, to England after the battle of Agincourt, they proposed to lay before him a representation of their grievances, and to solicit redress. In preparing this representation, their parliament seems to have been employed in the long session which they held at Dublin. It was constructed in form of a petition; but, whether the matter of it was extravagant, or seditious, or whether there was something indecent in its composition, to the astonishment and high irritation of the petitioners,

* Marl. apud Cambd.

petitioners, the chancellor refused to affix the seal; so that it could not be presented.

The spirit, however, that dictated this petition, did not suddenly evaporate. It revived a few years afterward under the government of the Earl of Ormond *, who found it prudent to allow it some indulgence, by permitting a petition of grievances from the Irish parliament to be conveyed to the throne. The petition was accompanied with a subsidy of a thousand marks, and commissioners were despatched to present it. After recounting their distresses, arising from the infidelity and cruelty of the Irish, they intreat the King's presence in Ireland, and that he would prevail with the Pope to order a crusade against their enemies. They complain of the insolence of their Chancellor, who had refused to affix the seal to their former petition, and of the rapacity and mismanagement of their Lieutenants. They request, that salutary regulations may be adopted with regard to their trade, their coin, and their church, but particularly, that a court of inquiry may be appointed to examine the conduct of the officers of government, which would discover scenes of iniquity and oppression, disgraceful to the King, and intolerable to the subject †. No evidence remains of any notice taken of this petition, except that the Chancellor was removed from his office; but it is even uncertain whether his behaviour in refusing to affix the seal was the cause of his removal ‡.

During

* 1420.

† Leland, vol. 2, p. 14.

‡ An English act in the 4th of this reign prohibits all Bishops of Ireland from granting collation of benefices in that kingdom to any native Irishman, or from bringing with

During the reign of Henry VI. who acceded a minor, and, when arrived to manhood, possessed not those qualifications which constitute a great King, the government of England was marked with indiscretion and disgrace, while the government of Ireland degenerated into debility. No supplies of money or troops could be spared from England; and an Irish parliament, which met at Trim, the first year of this reign, could provide for the defence of the Pale no more troops than twelve men at arms and sixty archers, who were to continue in pay no longer than forty days. The Earl of Marche, who was appointed Lieutenant, disdained to execute the office in person, and substituted, by his own authority, the Bishop of Meath to perform that service. The Irish council had still the spirit to signify their dissatisfaction with this piece of contempt. They refused to admit the Bishop to his seat, because his commission was authenticated only by the Earl's seal. They protested against the mode of appointment, and demanded a commission under the great seal of England or Ireland. The Bishop, however, persisted to urge his claim; and the council, after some struggle and delay, consented to admit it. They pretended that their conduct was the result of their regard to public peace, which might be endangered by a suspension of the executive department of government.

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The

with them to parliament Irish servants, because they might divulge secrets of state to their countrymen, who might be the King's enemies. Delinquents were liable to have all their temporalities seized till they made satisfaction to the King; *Statutes.*

The Irish continued to make inroads; some of the English nobles affected independence; and the Scots appeared once more on the coasts. Marche repaired to Ireland; but he died at Trim, soon after his arrival. He was succeeded by the active Lord Furnival, and the year following by the Earl of Ormond, who again made vigorous efforts to restore the credit of administration. They compelled many of the Irish chiefs to relinquish their impositions of black rent, and to renew their indentures of submission to the crown. They repressed the ambition of the English nobles, who aspired to privileges above the level of subjects, and they checked the incursions of the Scots. A few years of tranquility were the fruit of these measures; but the English interest seems to have been exceedingly circumscribed, while dispondency, poverty, and oppression every where appeared *. A parliament represented to the King, that the native Irish and the Scots had subjected to tribute the greater part of the counties of the Pale, and had left unconquered little more than the county of Dublin: That the English were in danger of total extirpation, or of being converted into Irish, by the manners, customs, and laws of their conquerors, which they were obliged to adopt. An Irish council sold an old silver seal belonging to the crown, which they found in the treasury, and employed the price to repair the windows of the castle of Dublin. "Marrying, fostering, trafficking" with the Irish, and every species of illegal intercourse prevailed, while the feeble and dispirited administration, unable to execute the laws in existence, was employed in forming new statutes against

* An. 1430. Leland, vol. 2. p. 22.

gainst these enormities, which were soon to share similar disregard. The most violent animosities subsisted between the English descended from the first planters, and those who had obtained posterior grants of lands, but who despised their countrymen, because they resembled the Irish. Complaints were multiplied of the inexperience, ignorance, and partiality of the King's deputies. And the crown could not satisfy the great Lords, but by favours which exalted them above the rank of subjects*. These favours prompted rivalships, contentions, and rebellions, and banished that peace they were meant to preserve.

When the situation of Ireland was so distracted and deplorable, it could not be expected to remain long in tranquility. The Earl of Desmond claimed the prerogatives of royalty, and asserted his claim so effectually, that the Lieutenant was obliged to allow his pretensions, and to treat with him for a truce as an independent Prince. The Irish chiefs in different quarters renounced their allegiance, and invaded the territories of the English. At this juncture a new Deputy† seasonably arrived from England, with a reinforcement of

* The Earl of Desmond had a patent from the crown, by which he was exempted from personal attendance in parliament, and was permitted to appoint a substitute to appear in his place. The Earl of Ormond procured a similar patent, for a certain number of years. Irish peers, who did not attend parliaments when summoned, incurred fines; *Prynne, animad.* p. 315. The reason assigned for granting the patent to Desmond is, that he could not, with safety to the peace, be absent from the counties of Waterford, Corke, Lymerick, and Kerry. In these counties his property was situated, and his power was great; but they abounded with Irish disposed to hostility against government. By the same patent are granted to the Earl all the lands and duties belonging to the King in these counties.

† Earl of Shrewsbury.

of 700 men. He attacked the Irish, repulsed and dispersed them. He seized some of their leaders, and even ventured to condemn and execute them. He repressed the ambition of the English nobles; and Desmond ceased to demand the honours and authority of a sovereign.

Shrewsbury now convened a parliament at Trim*, in which were enacted several useful laws, had the government possessed sufficient resources to ensure the execution of them. Conformity to Irish fashions and manners was again prohibited. An Irishman who had sworn allegiance, if convicted of robbery or violence, forfeited protection, and might be treated as an enemy. The clipping and defacing of the coin were interdicted. Gilded trappings, poitreles, and bridles, were forbidden to be used by any subject, except knights and prelates, on pain of forfeiture to any person who might choose to appropriate them. By another statute, all labourers and husbandmen are enjoined to prosecute their occupations, and not to commence "kearnes*, evil doers, idle men and destructioners of the King's leige people." Offenders incurred the penalty of imprisonment for a year, and the payment of such a fine as the judge should appoint.

The splendid and active reigns of the two preceding Henrys, had prevented the convulsions which might have been expected to result from the exaltation of the Lancastrian Princes to the throne;

* An. 1447. The acts of this assembly are the first on record in the Irish Statute-book, except a very few of a parliament in the year 1310. The intermediate statutes seem to be lost. The accounts we have of them are derived from other writings.

† Retainers.

throne; but the capricious and inglorious government of Henry VI. afforded, to the friends of the house of York, opportunity of attracting the attention of the people to the title of that family to the crown. The court became jealous of Richard Duke of York, in proportion as the number of his friends increased, and wished to remove him from the scene of action. Under pretence, therefore, that a person of his rank and ability was necessary to reform and compose the distracted state of Ireland, he was nominated to the office of Lieutenant. The Duke perceived that the court would willingly purchase his absence at the expence of any terms he could ask; and he demanded such appointments as had not been granted to any former governour. He required that he should hold his office for ten years, and should execute it, if he thought proper, by a deputy; that he should receive the royal revenue payable in Ireland without account; dispose of offices, civil and military; levy troops, and wage war without control; and that he should receive beside from the treasury of England 4000 marks for the first year of his administration, and 2000 pounds for every subsequent one.

Though these requisitions were so readily granted, that the Duke entered on his office, yet they seem not to have been punctually performed. The remittances from England were irregular, sometimes withheld, and nothing effectual could be done in the general reduction of Ireland. He preserved, however, the peace of the Pale during his residence, and the affability and condescension of his manners rendered him highly acceptable to the nobles. He assembled several parliaments, partly in person, and partly by his deputies, in which were enacted important laws

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relative

relative to the government and police of the kingdom. The popularity, however, of the manners and conduct of York was not altogether disinterested. He wished to procure the aid of the Irish in support of his pretensions to the crown; and he was not unsuccessful. When he was attainted in England, after the battle of Blore-heath, and compelled to fly into Ireland, he was received with every mark of favour and attachment. The Irish, for the first time, appeared to disregard the power and the authority of England, when governed by a Prince of the blood, whose sentiments were hostile to the King. The execution of the royal writs issued against the Duke, or any of his partizans, was declared in parliament to be felony. By other acts, his patent, which constituted him Lieutenant for ten years, was confirmed; to imagine or compass his destruction, incurred the pains of high treason; and, finally, to give consistency and authority to these bold statutes, it was declared, that Ireland was by antient laws and customs "incorporated within itself, and was to be governed only by such laws as had been advised, accepted, confirmed, and proclaimed by the Lords and Commons in parliament* assembled." The spirit conspicuous in these resolutions, so different from the tenor of antecedent and subsequent statutes, can scarcely be considered in any other light than a strong expression of the attachment of the Irish to the cause of their governour, in which they proposed to sacrifice their fortunes and their lives. They accordingly armed themselves in his defence, and attended him to England, where the greater part of them perished with their

* Leland, vol. 2. p. 42.

their leader in the battle of Wakefield. Edward soon completed his father's views of ambition, and excluded Henry from the throne.

In the parliamentary and judicial transactions of this reign, several incidents occur, which characterize the political connection which then subsisted between England and Ireland. By an act of the parliament of England, in the year 1423, the Irish exports are subjected to the same regulations with those of England and Wales, and "all merchandizes of the staple, passing out of these countries, are ordained to be carried to Calais, as long as the staple shall be at Calais*." In the year 1440, an act passed in a parliament, held at Dublin, abolishing the office of Purveyors, which had been made an engine of much oppression, and "establishing, that all the statutes in this behalf made, within the realm of England, be holden and kept in all points, and be put in execution in this land." In 1454, another act was made against provisors†, by which it was "established and ordained, that all the acts, ordinances, and statutes made against provisors, as well in England as in Ireland, be had and kept in force within this land of Ireland‡." These acts are the first of the Irish Statute-book, which pretend to add authority to English laws; and an important question occurs, Whether these acts were no more than a republication and re-enactment of laws already in force; or whether the English laws were of no authority in Ireland, before they were thus introduced and confirmed? The former branch of the alternative

* English Statutes.

† Persons who solicited presentations to benefices from the Pope, in prejudice of the rights of legal patrons and electors.

‡ Irish Statutes.

ternative seems to approach nearer the truth. It is, at least, certain, from records*, that the English statutes referred to, were transmitted to Ireland long before the formation of these Irish statutes, in the usual manner of other English acts, which are known to have been executed in this kingdom. As they were so well calculated to abolish some part of the oppressions which the Irish suffered, an impartial inquirer will scarcely hesitate in believing, that they were put in execution; especially, as no mention is made of an event so singular as would have been the refusal of the Irish to acknowledge the authority of these laws, while others were readily accepted and obeyed. It is, besides, manifest, that nothing is more common in the early statutes, both of England and Ireland, than a republication and re-enactment of the same laws, when violations of them were frequent, and the prohibitions and penalties they contained needed to be generally known.

Another circumstance, respecting the extent of the jurisdiction of the English parliament in Ireland, is remarkable. It was not uncommon in this and the preceding reigns, to solicit parliamentary confirmations in England, of grants of lands, offices, and honours, obtained from the crown in the former kingdom†. Records still exist which contain such grants and confirmations, and they leave little room to doubt, that the authority of the English parliament was reputed in Ireland the best security that could be obtained.

In

* Hib. part. 2. p. 163. &c.

† Har. Hib. part 2. p. 154. &c.

In the sixth year of this reign, the Prior of Lanthony, in Wales, brought an action for payment of an annuity in the Irish court of Common Pleas, against the Prior of Mullengar in Ireland, in which the former had judgment in his favour. The judgment of the Common Pleas was affirmed by the Irish King's Bench; but the judgments of both courts were reversed by the parliament of Ireland. The Prior of Lanthony brought the suit, by a writ of error, before the court of King's Bench in England. The English court, though in use to review the judgments of the courts of Ireland, refused to decide in a question which had undergone the discussion of the parliament of Ireland; and the Welsh Prior, as his last resource, applied by petition *, to the King and Lords of England, for redress. It unfortunately does not appear what was the result of this application, as the parliament-roll terminates with the petition.

In the 20th year of the same reign, is found the first mention of the doctrine, that the people of Ireland were not bound by English acts of parliament, till these were received and ratified by the authority of their own parliament. It occurred in the course of suit concerning an office in Ireland, before the English judges †. The King had conferred the office to be held in person, or by deputy, and an Irish parliament had passed an act, that such offices could only be occupied in person. The office was therefore reputed to be vacant, and was conveyed, by a new patent, to another candidate. Both patentees claimed possession.

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* Prynne, animad. p. 313.
part 2. p. 16.

† Year-book of 20th Henry VI. Hib.

The court entertained no doubt of their competency to try the cause; but they differed concerning the authority of the Irish act of parliament. Two judges * thought the act a sufficient ground for setting aside the first patent. Other two † were of a contrary opinion. The fifth judge ‡ founded his decision against the first patent upon the facts admitted by the parties, not on the validity of the act. As this doctrine was new and delicate, it will not excite wonder that the judges entertained different sentiments concerning it. It recurred about sixty years later in the English courts ||; and the judges, after long deliberation, were much embarrassed in fixing their opinions. One term, says Brooke, they reprobated the authority which pretended, by English statutes, to bind the people of Ireland. Next term, they acceded to the opinion of the chief justice, who maintained that authority. The parliament of England had never passed acts which directly demanded any subsidy or internal tax from Ireland; and it appears that their forbearance in this respect, though they had disposed of the property of that country by several laws, chiefly influenced the minds of the judges.

The attachment of the Irish to the interest of the house of York, afforded them ground to expect marks of royal favour, on the advancement of that family to the throne. But the civil wars, during the reign of Edward IV. left him little leisure to attend to their affairs. One of the first acts of his reign was, to appoint his second brother, George Duke of Clarence, to the office of Lieutenant for life, which this Prince always executed by a deputy. Several

* Yelverton and Portington.

† Fortescue and Markham.

‡ Ascough.

|| First of Henry VII. Brooke, tit. Par. p. 90.

Several of the nobles who adhered to the cause of the late King were attainted, and an Irish rebellion was the consequence of this severity. It was, however, soon suppressed by the activity of Earl Desmond, who, for his services, was advanced to the dignity of Lieutenant-deputy. The elevation of Desmond prompted the envy and violence of his enemies, and new commotions arose. The forces of the Lieutenant were defeated, and himself taken prisoner. The insurgents, aided by the native Irish, invaded, from different quarters, the territories of Meath and Munster; and Desmond, to save the Pale from destruction, and to procure his release, was obliged to negotiate a peace, by which O'Brien, a chief of Munster, was left in possession of a considerable part of his conquests, and was to receive an annual pension of sixty marks from the city of Limerick.

The enemies of the Lieutenant no longer kept any reserve in complaints of his male-administration. The Bishop of Meath, with whom he had a quarrel, repaired to London to lay these complaints before the King; and the Earl, resolving to follow him, in order to defend himself, a parliament, which met at Drogheda, was so complaisant as to empower him to nominate a substitute to manage the business of the public during his absence. They even furnished him with ample testimonies of his loyalty, activity, and discretion. He soon returned to his government, elated with victory over the malice of his enemies, by obtaining the approbation of his Sovereign; and, to testify his gratitude, he convened a parliament*, which enacted some useful laws, tending to reform the manners, and to provide for the defence of the Pale.

The

* 1465. 5th Edward IV. Irish statutes.

The native Irish, within the precincts of the English territories, were enjoined to form their dress and wear their beards, after the fashion of the English; to swear allegiance to the King, and to assume English surnames; all Englishmen, and all Irishmen who could speak English, whose age was between sixteen and sixty years, were ordered to provide bows, equal to their stature in length, with twelve arrows, one third part of the length of the bow. Butts were to be erected, and a constable was appointed in each town, who was to take care that all persons practised shooting every holiday. To prevent the conveyance of useful commodities to their enemies the Irish, all foreign ships were forbidden to fish on the Irish coasts, on pain of forfeiture of the vessel and cargo.

The prosperity of Desmond was not of long duration. He is said to have offended the Queen by some indiscreet reflections on her family, which so provoked her resentment, that Lord Tiptoft was appointed to supersede him. Tiptoft assembled a parliament at Dublin, which was afterwards adjourned to Drogheda. One of the chief reasons of calling this meeting of the national council, was to procure the attainder of Desmond, and Kildare his kinsman; but, before this business was brought on, some acts were passed which demand attention. It was ordained, that the tax of black rent paid to the Irish should, in future, be paid only to the King: And that the sentence of excommunication, the general penalty inserted in the Irish indentures of submission, should be rigorously pronounced by the Bishops against rebels, after forty days monition. In framing this act, the parliament maintained the King's right to the obedience of the Irish, on the strange ground of having received the sovereignty of Ireland from the Pope.

By

By another act, an English statute of the sixth of Richard II. concerning Rape, was ratified. This was the third instance in which English acts had been introduced; but, to save the trouble of particular enactments for every English law, a general clause was added, which * “ratified and confirmed, and adjudged to be of authority, all English statutes within the realm of Ireland.”

Many of these statutes had already been executed in Ireland; and, it can scarcely be doubted, that actions on them all were competent in the Irish courts. This ratification, therefore, must be considered as calculated, either to secure the obedience of them by adding the authority of the parliament of Ireland to that of England, or as an important step toward withdrawing the former kingdom from the jurisdiction of the parliament of the latter, the point to which its civil constitution and administration naturally tended. It must, at the same time, be admitted, that legislators, who could derive the sovereignty of their King from the dominion of the Pope, seem neither to have understood, nor to have been zealous to maintain the principles of liberty †.

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* Irish Statutes, Leland, vol. 2. p. 56.

† It appears, from the words of this act, the opinion was general in Ireland, that the people were subject to the jurisdiction of English laws, and that no body had any doubt on this head, except the few Irish who were “learned men,” perhaps, lawyers. “Having consideration, that the people learned in this kingdom have conceived some doubt, whether the said statute, made in England, ought to be of force in this land, without a confirmation thereof in this land, in avoiding all inconvenience which might happen, because of the ambiguity of (i. e. doubt concerning) the said statute, it is enacted,” &c.

The attainder of the Earls Desmond and Kildare was now brought forward, and affords a conspicuous instance of caprice and party-spirit. They were condemned for making alliances and holding unlawful correspondence with the Irish, when no judge, perhaps, who pronounced that sentence, was not conscious of having committed, either from choice or necessity, the same crimes. Desmond, confident of the iniquity of the sentence, repaired boldly to the viceroy to justify his conduct; but, so strong against him ran the current of popular opinion, that he was immediately seized and beheaded. One of the greatest peers was conducted to the scaffold without opposition, in a country where the meanest culprit could, with difficulty, be brought to punishment. Kildare, instead of soliciting the justice of the Lieutenant, had recourse to the clemency of the crown. He received not only a pardon, but the royal pleasure was signified to Tiptoft, that the attainder should be reversed. The same parliament which had condemned him restored him to his estate and dignity, and the King soon exalted him to the office of Deputy, in the place of the man who had procured his condemnation. Such violent and contradictory proceedings are accountable only from the prevalence of political animosities, which seem to deprive men of the natural exercise of their understandings, and to eradicate from their minds every principle of truth and justice.

On the restoration of Henry VI. the Duke of Clarence was continued Lieutenant*, and Kildare remained substitute. The territories of the Pale were now much circumscribed, scarcely extending

* Rymer, tom. 11. p. 693.

tending beyond the four counties of Dublin, Meath, Lowth, and Kildare. Some effectual measures were necessary to prevent the total degeneracy or extirpation of the English; and a small standing army, constituted by act of parliament, for the first time, made its appearance in Ireland. Thirteen persons, of chief eminence in these counties, were erected into a military society, which took the name of St George. They were appointed to meet annually on the day consecrated to their tutelary saint, and to elect one of their number, who was to have the command of their little band. The troops were to consist of 120 archers on horseback, beside forty other horsemen, each of whom, because, perhaps, of superior rank, was to be indulged with a page, who was also to bear arms. The archers were to receive pay, at the rate of sixpence a day, but the horsemen were to receive only five-pence a day, beside an annuity of four marks a year. Parliament provided for their support by imposing a tax of five *per cent.* on all imports and exports, except those belonging to the freemen of Dublin and Drogheda*.

Though these troops might have been sufficient to check the rebellions, and even the incursions of the native Irish, their force was annihilated amidst the contentions of the nobles. Factions revived; party remonstrated against party; Edward IV. was embarrassed, and knew not with whom to trust the government. He removed Kildare, and filled his place with the Archbishop of Armagh. He recalled his appointment of the Archbishop, and nominated the young Earl of Kildare to hold the office of Lieutenant.

* Davies, p. 69.

nant. He, finally, changed his plan of employing Irishmen, and sent Lord Gray to govern Ireland, attended with a body of 300 men at arms, and a company of archers. This measure threw the Irish nobles into a flame. They refused to acknowledge the new governour, because his commission was authenticated by the King's privy seal; and Kildare continued in office. The Chancellor abstracted the great seal, and the Constable of the castle of Dublin refused him admission. Gray summoned one parliament, and Kildare convened another. The former parliament rescinded the acts of the latter, and appointed a new seal to be made. The Duke of Clarence died in this critical moment, which annulled the commissions of both Lieutenants. While the King appointed his infant son George to the office, and sent over a new commission to Lord Gray, the council attached to Kildare re-elected him governour; and the contention appeared to continue with its former keenness.

To repress the spirit which prompted such violent contentions and proceedings, Edward commanded Kildare, and some of his partizans, to repair to London, under pretence of communicating full information concerning them *. Lord Gray, apprehensive, perhaps, of the misrepresentations of his enemies, relinquished his government, and returned to counteract them. Kildare had the influence or address to afford the King such satisfaction, that Gray was superseded, and himself constituted Deputy, by a commission which was to endure for four years, and was authenticated in the same manner with that of Lord Gray, which encountered

* Rymer, tom. 12. p. 69.

countered so much opposition. But it was not now the interest of Kildare to make objection. He was commanded to continue the standing force of the fraternity of St George; and, as it was suspected the revenue of Ireland might not be equivalent to the expence, though estimated no higher than 500 pounds a year, money was promised to be remitted from England to supply the deficiency. Other regulations were adopted to restore tranquillity. The King assumed the office of arbiter between the contending parliaments; and, without deciding in favour of the authority of either, he approved such acts of each as he found most salutary and conciliating. The Lieutenant was enjoined to demand no more from any parliament than one subsidy in a year, which was not to exceed one thousand two hundred marks. It was farther ordered, that no resolution of the council should be valid, unless assented to by the Lieutenant and the major part of the counsellors. Kildare carefully attended to these instructions in the execution of his office; and by adherence to them, and the ascendancy he acquired in Ireland, in consequence of the high influence he was reputed to hold with the King, he was enabled to preserve the small territory of the Pale in an unusual state of tranquillity during the remainder of the present reign, that of Edward V. and the usurpation of Richard III. *

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CHAPTER

* In the reign of Richard III. we find an act of parliament appointing the election of the Deputy, in cases where the Royal pleasure could not be known, to be made by the council, with the assent of the nobles. What deserves attention, this was the rule laid down by Henry II. which the act only revives and re-establishes. The rule of Henry is called a statute in the act of Richard; but it could be no more than an arrangement of the King, supported by the advice of the nobles. A regular parliament had not then appeared in Ireland; *Harris, Hib. part 2. p. 216.*

CHAPTER V.

Lambert Simnel's Reception in Ireland—Partiality of Parliament—

Sir Edward Poynings—Laws—Reflections—Lieutenancy of Lord Surrey—Narrow Limits of the Pale—Reformation—Policy of the Irish Council—New Counties.

THOUGH Henry VII.* attempted to terminate the long wars between the families of York and Lancaster, by a marriage with Elizabeth the daughter of Edward IV. he could not secure his kingdoms from commotions. The friends of the House of York were numerous in England; and the Irish of the Pale were, almost without exception, attached to its interest. When, therefore, the impostor Lambert Simnel disclosed his pretensions to the crown under the title of Earl of Warwick, he naturally chose this kingdom for the theatre of his operations. The Irish were little scrupulous in canvassing the credibility of the story he told, or in examining his claim to the crown, supposing it to be true. They espoused his cause with a zeal more ardent than that by which they had supported the Duke of York, father of Edward IV. He was immediately treated as their sovereign, and soon proclaimed King by the title of Edward VI. In vain did
Henry

* An. 1485.

Henry endeavour to undeceive the Irish with regard to the person of the real Earl of Warwick, by exhibiting him in the streets of London, at St Paul's, and other public places; they accused the King of propagating imposition, by producing a supposititious Warwick to supplant the true. The Dutchess of Burgundy, prompted by antipathy to the family of Lancaster, abetted the cause of Simnel, and sent 2000 troops into Ireland to support his interest. Such a powerful reinforcement inspired the Irish with the highest confidence. The Bishop of Meath preached in favour of his right to the crown. He was lodged in the castle of Dublin, and attended with royal magnificence. His title was finally recognized by a parliament summoned by his authority; vengeance was denounced against his enemies; subsidies were granted for his support; and the executive department of government proceeded in his name.

The circumscribed territory, and small revenue which Ireland could present, were objects inadequate to gratify the ambition of Simnel and his followers. The crown and riches of England were the acquisitions to which they aspired; but, as they could not expect to augment their forces, or to accomplish their views, till they had secured a footing in that kingdom; to it, therefore, they resolved to repair. Few reinforcements joined these bold and sanguine adventurers after they arrived in England. The people every where compared the magnitude of their enterprise with the narrowness of their resources, and wondered at the ignorance or presumption which guided their counsels. They reached Newark without opposition; but there they encountered the royal army, and were completely defeated. Simnel was taken prisoner; many

ny of the Irish Lords were killed, and the troops were dispersed. Henry * disdained to take the life of this adventurer, or even to punish him for the disorders and rebellion of which he had been the cause. He embraced a more mortifying method of humbling him and his adherents; to remind them of his birth and fortune, he appointed him to superintend the management of the royal hawks †.

Though the Irish of the Pale immediately returned to their allegiance after the battle of Newark, and supplicated the mercy of the crown; yet Henry held their fidelity equivocal, till he had sent over Sir Richard Edgecombe to administer the oaths, and to settle the affairs of that country. Kildare was re-appointed to the office of Lieutenant, after many intrigues and insinuations of his enemies had been employed to prevent his elevation. His government for some time received no disturbance from the inroads of the Irish chiefs, who were occupied in deciding their own provincial contests; and he possessed force and influence sufficient to secure the peace of the English territory. Among the Irish chiefs the Earl of Desmond now acted a conspicuous part. As he possessed ample territory in the province of Munster, he assumed independence, imitated their manners, and was able to meet the bold-est of them in the field. Even the rival families of Kildare and Ormond seem to have been attached to government from no motive,

* Bacon's Hist.

† On a future occasion, Henry could not refrain from reproaching the Irish with their attachment to Simnel, and told some of their Lords, when admitted to his presence, that he believed their countrymen would crown apes rather than want a King of their own; *Davies*, p. 68.

tive, but a desire of availing themselves of its interest to exalt their own power, and to humble their antagonists. They hesitated not, in contempt of all legal authority, to decide their private quarrels by the sword, when their interest and power were nearly balanced. When either party obtained the ascendancy, they could so far control the deliberations of the national assembly, that its resolutions appear calculated only to stigmatize and arraign their adversaries. No candour, no justice, no public spirit were to be expected, even in the legislative body of the nation. Imagination can scarcely exhibit a picture of civil society more deplorable than that of Ireland at this period. A contemporary writer*, computes no fewer than sixty independent Irish chieftains, who governed as many districts of different dimensions, beside many English chiefs scattered in the provinces, who had assumed the manners and laws of the Irish. He circumscribes the territory of the Pale within one half of the counties of Lowth, Meath, Kildare, Dublin, and Wexford, and he represents the common people, even of these counties, as entirely Irish in dress, manners, and language. To these political calamities had lately been added the dreadful natural ones of pestilence and famine. The people had become desperate by violence and oppression, and were ready to support any enterprise, however dangerous, which offered a chance of terminating their present misfortunes. They had warmly espoused the cause of Simnel, and, notwithstanding its fatal consequences, they were ready to abett the imposture of Peter Warbeck. Though the activity of

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* Pandarus, Leland, vol. 2. p. 98.

Henry's enemies permitted him not to detach a force equivalent to the reduction of Ireland, he perceived, however, unless the animosities and ambition of the nobles were restrained, and the people secured from rapine and injustice, that no advantage could be derived from that country to the crown of England; perhaps the establishment it had gained might be lost. Sir Edward Poynings was the person chosen to execute this important task.

Poynings engaged in the business with a sincere desire to redress the evils complained of, if he was not animated with the enlarged conceptions of a legislator and an accurate knowledge of the principles of liberty. After landing in Ireland with a reinforcement of one thousand men, and repressing some insurrections by a march through the territories of the Pale, he convened a parliament at Dublin *, and applied himself to the reformation of the state, by enacting such laws as might most effectually promote that end. Two great purposes were intended to be accomplished; to secure the future dependence of the nobles on the crown, and to protect the commons against extortions and violence. All the statutes of Poynings have one or other of these objects in view.

He began with enlarging the powers of the treasurer, and providing for a regular inspection of his accounts, in order to secure the collection, and to prevent the embezzlement of the revenue. It was enacted, that the powers of the treasurer of Ireland should be equivalent to those of the same officer in England;

* Ann. 1495.

land; that his accounts should be audited annually by the barons of exchequer and some of the King's council of Ireland; that their report should be transmitted to the exchequer of England, where it should be re-examined, and the business finished. A subsidy was granted, at the same time, of twenty-six shillings and eight-pence out of every hundred and twenty acres of arable land, which was to continue for five years.

Previous to this aera, the patents of the chancellor, treasurer, judges, and master of the rolls, had continued for life, which, instead of communicating to these officers that independence which is one of the best securities of political liberty, had tempted them to employ their influence in fomenting dissensions and rebellions. At the request of the commons, the duration of their patents is limited to the King's will and pleasure, that his Majesty might be enabled to dismiss judges and servants whom a sense of honour and justice could not oblige to conduct themselves with propriety. By other statutes, the seditious acts * passed during the lieutenancy of Richard Duke of York, concerning the protection of rebels, and the execution of royal writs against them, were repealed. All English and Irish statutes against provisors were revived. Citizens were prohibited to attach themselves to any Lord or gentleman, or to receive "livery or wages," as their attendants and retainers. The statutes of Kilkenny were revived and re-enacted, except those which forbid riding without saddles in the Irish manner, or the speaking of the Irish language, the prevalence of which customs it was found impracticable to proscribe.

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* Page 73. &c.

The people were commanded to procure bows and arrows, and were prohibited “to keep in their houses, garrisons, or places, great gun or hand gun,” without license from the deputy, under forfeiture of twenty pounds to the King. To levy war against the Lieutenant, or to instigate the native Irish to make war against the King’s subjects, was declared high treason; and all persons were forbidden to make peace or war with the Irish, without the authority of the deputy. By another act, all the laws made in England “belonging to the public weal,” were ordained to be “deemed good and effectual in law, and to be accepted and used, and executed within this land of Ireland.” This is the second general “establishment” or enactment of English laws which appears in the Irish statute-book, and it seems to refer chiefly to the English acts which had been framed since the time of Edward IV. *. But the most memorable of all the statutes made in this parliament, perhaps [the most memorable ever was made in Ireland, is that which regulates the manner of conducting business in the parliaments of this kingdom, and which has been since its formation distinguished by the name of *Poyning’s act*.

At the request, then, of the commons of Ireland, it was “ordained†, enacted, and established, that no parliament be holden in the said land, but at such seasons as the King’s Lieutenant and council there do certify the King, under the great seal of that land, the causes and considerations, and all such acts as to them seemeth should pass in the same parliament, and such causes and

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* Page 81.

† Irish statutes.

siderations and acts affirmed by the King and his council to be good and expedient for that land ; and his license thereupon, as well in affirmation of the said causes and acts, as to summon the said parliament under his great seal of England had and obtained ; that done, a parliament to be holden after the form rehearsed, and any parliament held contrary to it to be deemed void."

If this statute had originated from the Lieutenant, or if there were not good reasons to believe that the commons were sincere in their solicitations for its enactment, and in their apprehensions, during subsequent reigns, for its repeal, it would appear one of the strongest efforts to extend the jurisdiction of the crown, which the history of any free country can supply. It conveyed to the King and his English council the control of the deliberations of the parliament of Ireland, and was no less hostile to the independence of this body, and the authority of its resolutions, than the arbitrary committee in Scotland, called the Lords of the Articles, who possessed an exclusive right to decide what business should appear in the parliaments of that country.

It is consistent with the principles of liberty, and is necessary for its support, that each branch of a compound legislative body should possess a power of rejecting the resolutions of any other branch which it disapproves ; but it is equally requisite to the existence of liberty, that each branch should enjoy the privilege of proposing to the other branches, such new laws as it conceives to be conducive to the general good. In all political constitutions, however, men will sacrifice some portion of their liberty to obtain greater security ; and they will rather confide in the equity

and justice of their sovereign, whose dignity and interest are inseparable from the prosperity of his people, than retain a precarious liberty under a feeble administration, which every minister, and every man of power and fortune, may wrest from them at his pleasure. The people of Ireland had given willing obedience to acts of the parliament of England, before they had any regular parliaments of their own. The former parliament, on many occasions, displayed an inclination to divest themselves of the burden and expence of the government of Ireland. No instances had hitherto occurred of their zeal to maintain their jurisdiction in this country; few even of their acts appear to have been transmitted, after the Irish parliament was regularly constituted, and had proceeded to exert its legislative authority. But none of the Irish acts, however salutary, were generally obeyed, on account of the imbecillity or corruption of the executive department of government; and their most useful statutes were those which introduced and established the laws of England. The greater part of the other business transacted in their parliaments, consisted of the intrigues and recriminations of party against party, in which the interest of the public was forgotten; oppression of every species was connived at, and the gratification of the resentment and ambition of individuals only was consulted. In such a state, the interposition of any neutral authority, which could control and rectify these enormities, must have been highly acceptable to the Irish; and there is little reason to wonder, that they had recourse to the protection of the King and his English council, against the violence and extortion of despotic nobles. Subjection to the latter was the worst of servitude. They had reason to expect,

expect, at least, a mixture of lenity and humanity in the management of the former.

After the passing of the act of Poynings, the progress of bills in the parliament of Ireland fell nearly into the channel in which it has since continued. The Irish council consulted concerning the acts proper to be made; and, to gratify the nobles, admitted them to share their deliberations. The result of their consultations was framed into laws, which were transmitted to the King and council of England, from whom they were returned, under the great seal, and were, finally, proposed to parliament, there to be discussed and approved or rejected.

This act had an immediate and salutary effect on the state of Ireland. It annihilated, for a short time, the political intrigues and contentions of the nobles, and permitted the Deputy to attend to the executive part of the government. No more than three parliaments were held during the remaining fourteen years of the present reign, and in them little business was done. Kildare, who was elevated to the office of Deputy to Prince Henry, had leisure to undertake some successful expeditions against the Irish, and to recover part of the English territory. By the battle of Knockbow, the degenerate English chiefs in Munster and Connaught were intimidated, and their violence repressed. Several castles were surrendered to the King, and others were erected or repaired for the defence of the loyal subjects. A parliament convened at Trillick for the improvement of the revenue, appointed the English laws respecting the punishment of negligent officers of the customs to be observed in Ireland, after they had been "proclaimed in Dublin, Drogheda, and other market

ket towns." By another act passed in the following year, a duty of five *per cent.* on all merchandize imported or exported, except wine and oil, was granted to the crown *. The two Deputies, Poynings and Kildare, who had been so successful in reforming the constitution, and in extending the territories of the Pale, received the King's approbation, and were admitted companions of the most noble Order of the Garter.

On the accession of Henry VIII. †, the government was continued in the hands of the Earl of Kildare. But, as the rival family of Ormond employed all its influence with the crown to dispossess him, Cardinal Wolsey, thinking it vain to expect reconciliation between these adversaries, or public tranquillity, while either of them remained in power, advised his master to exalt the Earl of Surrey to the office of Lieutenant. Surrey was attended with an army of 1100 men, and remained two years in Ireland; but he could accomplish nothing more than to defend the Pale against incursions. He had, however, applied himself carefully to understand the state of the country, and the dispositions of the people. He complained to the King of the fickleness of the Irish, and reprobated the folly of pretending to secure their submission by indentures. He proposed a complete conquest of the island to be made at once, by attacking the Irish in different quarters; and specified an army of six thousand men, as requisite to insure success. Before the departure of Surrey, Kildare had incurred suspicion of treasonable correspondence with the Irish;

* Irish Statutes.

† An. 1509.

Irish; the reins of government were, therefore, on his resignation, entrusted with the Earl of Ormond.

The government of Ormond was not supported with dignity and effect. He was insulted by the Irish chiefs, who even ventured to send complaints of his conduct to the King. Kildare threw his weight into the scale against him, which accomplished his dismissal, and the exaltation of himself*. Kildare, in his turn, incurred the displeasure of the King, and was removed. But, after some unsuccessful attempts to put the government into abler hands, he was replaced, with more favour than he had ever possessed; and, as the affairs of the Continent engrossed the attention of Henry, he was permitted to rule Ireland at his pleasure. He emulated the manners and rude magnificence of an Irish chieftain. He gratified his resentment against his enemies, under pretence of maintaining the authority of the crown. He held frequent and open communication with the degenerate English and Irish chiefs, and permitted two of the latter to marry in his family, in contempt of the laws he was called to execute.

The Lords of the council beheld the state of affairs with alarm, and the majority of them agreed to communicate an account of it to the King. They represented, that the authority of the English government did not extend to any place above thirty miles from Dublin†; that their governour either would not, or could not, afford protection to the subject, in the obedience of the laws;

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* Leland, vol. 2. p. 134.

† Davies, p. 237. The river Barrow is not thirty miles distant from Dublin; and hence the Irish proverb, "That they dwelt bewest the law, who dwelt beyond the river of the Barrow."

that arbitrary exactions were demanded by the nobles, and heavy tribute by the Irish chiefs; that the revenues of the crown were carelessly collected and wantonly misapplied; that faction influenced all appointments to public offices, the decisions of their courts, and the deliberations of their parliaments. They intreated his Majesty to commit the government to some independent Englishman, who would continue in the administration, and might introduce vigour and justice into their counsels*.

Henry imputed these disorders to the male-administration of Kildare; he, therefore, sent him a mandate to repair to London, that he might give an account of his conduct, and to leave the government in the hands of Lord Thomas, his son. On his arrival, he was committed to the Tower, and a report was conveyed to Ireland that he had been put to death. Lord Thomas, in revenge, flew to arms, appeared before the council, resigned his commission of Lieutenant, and declared himself the enemy of Henry, with his intention of compelling the Pale to renounce its allegiance, and to submit to himself. Thus Ireland, instead of obtaining redress of former grievances, found itself involved in all the miseries of civil war.

Lord Thomas over-ran the Pale, seized its castles, and besieged its towns. He held correspondence with the English and Irish chiefs, and had the address to persuade several of them to espouse his cause; so that he was able to assemble a disorderly army of 7000 men. As soon as the news of this rebellion reached

* Finglafs's breviary contains a plan of internal reformation, written with an intention of being communicated to the King; *Har. Hib.*

ed London, Henry despatched Sir William Sheffington, whom he had appointed Deputy, and a considerable reinforcement of troops to suppress it. Lord Thomas opposed their landing, and was successful in some encounters against them. His Irish militia, however, deserted him, and he was obliged to submit himself to the mercy of the King. The resentment of Henry, unsatisfied with one victim, threatened destruction to the family of Kildare. He committed Lord Thomas to the Tower, and ordered his new Lieutenant, Lord Grey, to seize five of his uncles, three of whom were known to have disapproved and opposed the rebellion. They were all conveyed to London, and, with their nephew, suffered the punishment of traitors.

The reformation of religion, which Henry was now anxious to introduce into Ireland, concurred to embarrass the political state of that country. The clergy, in general, heard with astonishment, that the supremacy of the Pope was disputed, and that their monarch arrogated to himself an authority, from which his ancestors and his parliaments had declared he derived his sovereignty. In vain did Henry's commissioners, who had been sent to convert his Irish subjects, endeavour to evince the invalidity of the Pope's claim, by entering into controversy with bigoted and ignorant ecclesiastics, who had no rule of faith but their habits and their passions. Henry expected to find his lay-subjects more docile and manageable; Lord Gray was, therefore, commanded to summon a parliament, to take this and other weighty matters into consideration.

The parliament was assembled at Dublin*; and as no transmission of bills had been made, conformable to the law of Poynings, one
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* 1536. Irish Statutes.

of the first acts was to dispense with that formality in regard to the business of the present session. They proceeded to attain those persons of the family of Kildare who had been concerned in the late rebellion; to declare the inheritance of the crown to belong to the King and his heirs by Queen Ann; to reverse this act on the condemnation of the Queen; to settle the crown on the heirs of Queen Jane; and, in default of such heirs, to empower the King to dispose of the crown by letters patent, or by will. Similar statutes to these passed in England, respecting the supremacy of the Pope, appeals to Rome, first fruits, the supremacy of the King, suppression of religious houses, and applications to the Pope for pensions, dispensations, and licenses, were severally enacted. In the acts concerning licenses, the words of the English and Irish parliaments are remarkable. The words of the former are, that the "King and council shall be impowered to reform and redress all manner of indulgences within this realm, or within any of the King's dominions *." The enacting clause of the Irish act is thus expressed: "Forasmuch as it is mentioned in the said (English) act, that the effects thereof shall not only extend to the realm of England, and the subjects of the same, but to all other the King's dominions, and his subjects, and that this the King's land of Ireland is his proper dominion, and a member appending and rightfully belonging to the imperial crown of the said realm, and united to the same; be it therefore enacted, that the said (English) act, and every thing therein contained, be established, affirmed, taken, obeyed, and accepted as a good and perfect law within the land of Ireland." It seems manifest, that the parliament of England intended to include Ireland in

* English Statutes.

in this act, and that the Irish parliament understood this to be their intention. The latter, however, without controverting the jurisdiction of the former, or pretending to discuss a doctrine so delicate, content themselves with reciting the words of the English statute, and appointing it to be obeyed in Ireland, nearly in the same mode of phraseology by which they had formerly introduced other English laws.

The remaining acts* of this parliament were, chiefly, antient statutes revived, particularly those relative to intercourse with the Irish, the use of their dress, manners, and language, and the continuance of the usual subsidy of thirteen shillings and fourpence, on every plough-land, for ten years. In the intervals of business, and after the adjournment of parliament, the Lieutenant made several progresses through the territories of the Pale, and undertook some expeditions into the province of Munster, and even those of Ulster and Connaught. His force was considerable, and victory every where attended his arms. Many of the Irish and English chiefs repaired to his camp, tendered their submissions, took the oaths, and subscribed bonds of allegiance to the King. But the clergy, and the great body of the people, retained their aversion to the reformation of religion; and new convulsions originated from this source. The capital ecclesiastics held secret correspondence with the court of Rome. Numerous emissaries from that court appeared among the people, and instigated them to opposition and rebellion. The chiefs of Ulster took arms, declared war against the enemies of the Holy See, and marched an

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* Irish Statutes.

army into Meath to vindicate its claims. Lord Grey collected his troops to repel these invaders. He attacked them at Ballahoe, where an obstinate engagement ensued, against superior numbers, and he totally dispersed their army, after killing 400 of their men on the field of battle. This victory raised the reputation of the English arms, and produced important consequences. O'Brien, who had succeeded to the demesnes and sovereignty of Thomond, and had conducted the rebellion, hastened to make peace by submission. Even Earl Desmond humbled himself to the condition of a subject, renounced the sovereignty of the Pope, and condescended to appear in parliament, in obedience to the writ of summons.

Sir Anthony Saintleger, who was now appointed Deputy, endeavoured assiduously to improve this favourable state of affairs. He convened a parliament at Dublin *, which, by several prorogations, was continued for two years and an half. In it many laws were enacted, for the punishment of crimes, and the security of the subject; but, what chiefly contributed to throw an air of dignity around administration, and powerfully flattered the vanity of the people, was an act by which the regal stile was changed from Lord to that of King of Ireland. These popular laws, attended with seasonable grants of preferments, titles, and presents †, procured the submission and attachment of the English ;

* An. 1542. Irish Statutes.

† Among the nobles and chiefs honoured with titles, and admitted to the royal presence, were Earl Desmond, who was made an Irish counsellor, Macwilliam of Connaught, created Earl of Clanricard and baron of Dunkellen; O'Brien of Thomond, created Earl

glish; and almost all the Irish chiefs renewed their bonds of obedience. A zeal for government generally displayed itself; the splendour, the greatness, the clemency of the crown, became topics of discourse, and objects of admiration. The Deputy conducted himself with affability and complaisance toward the nobles and chiefs who approached his presence; and, to secure their affections, many of them were persuaded to repair to court, that they might receive the honour of personal conference with the King. Since the time of Richard II. the affairs of Ireland had not presented an appearance* so favourable and pacific.

Though these wise arrangements conciliated the favour of all ranks of men, the work of reformation was still incomplete. The antient connection between superior and vassal, with all the train of services and attendance it inferred, remained in full force among the Irish. The chiefs did not consider themselves as divested of any of their patrimonial rights, by acknowledging the sovereignty of the King; and the executive department of government was too feeble to substitute, at once, the English law in place of the Brehon. The council, anxious to attempt some remedy

Earl of Thomond and Baron of Inchequin; O'Neal of Ulster created, himself, Earl of Tyrowen, and his son Baron of Dunganon; two gentlemen of his retinue received the honour of knighthood, and a chain of gold was presented to him by the King. Their paternal estates were granted to them by new patents; and, to prevent their relapsing into the barbarous manners of their countrymen, to provide for their convenient attendance on parliament and the business of the public, houses and lands near Dublin were conferred on each of them; *Davies*, p. 245. *Rymer*, vol. 14. p. 797.

* *Davies*, p. 241. *Leland*, vol. 2. p. 182.

medy of these evils, ventured to assume to themselves legislative powers, and adopted a system of regulations, forming a compound of the English and Brehon law. Their principal object was to insinuate a knowledge of the former law among the people, to convince them of its superior equity and excellence, to inculcate a sense of general interest, and the propriety of depending on legal authority for protection. Manlaughter and theft were declared to be punishable by fines*; every master was made accountable for his servants, and every father for his children. No *cuttings* † were to be demanded by the Lord from his tenants, to maintain war with his neighbours, but only to support his necessary expence. That these regulations might be carried into execution, they appointed judges in each province, who were to hear and decide suits in conformity to them, and who, in cases of difficulty, were to remit the cause to the Lieutenant. This plan of policy was considered as an important step toward the division of the whole island into counties, and the establishment of sheriffs, without whom its peace could not be preserved. In Connaught and Ulster no sheriffs had appeared for many ages. In Munster they durst not put the laws in execution; and no justice of assize could condemn an offender. Even in Leinster, the jurisdiction of the sheriffs was much circumscribed, and a great part of that province was exempted from their power. The effect of these prudent measures quickly displayed itself.

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* For every act of manslaughter, and every theft, above the value of 14 pence, was to be paid a fine of L. 40; for every theft under 14 pence, the fine was five marks.

† Arbitrary exactions on extraordinary occasions.

The chief of Tirconnel, whom Francis I. of France endeavoured to instigate to rebellion, refused to listen to the proposals of that monarch, and a considerable body of Irish forces attended Henry to the war in France.

During the greater part of the short reign of Edward VI. Ireland remained in peace, if we except the commotions resulting from religion*. Some attempts were made to introduce the new liturgy, and to abolish the influence of the Pope; but they were generally opposed, both by the clergy and people. The rites of the church of Rome were still practised in many places; and ecclesiastics, nominated by the Holy See, were peaceably admitted to the enjoyment of benefices. This interval of peace must be imputed to the prudent measures adopted by Henry VIII. under the Lieutenancy of St Leger, who had gained the attachment of the Irish chiefs to the side of government. For, immediately after the death of these chiefs, their people relapsed into the manners and opinions of their ancestors. The estates and honours of Clanricarde and Thomond, descended not to their

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heirs.

* We must except also an expedition against the Moors and Connors of Leix and Ofally, by which they were so reduced, that their lands were converted into counties by Philip and Mary. This expedition was conducted by Sir Edward Bellingham, who was Deputy in the second year of Edward VI. He brought the troops from England with whom he performed this service, and the accounts of their expence remain in the remembrancer's office. The charge of six hundred horse, amounted to L. 770 *per* month, and the charge of four hundred foot, to L. 446 *per* month; *Davies*, p. 69. If this money was not additional to what might be expected from the Irish treasury, the reader will observe, with surprise, the diminution in the pay of soldiers from the time of Richard II.; p. 59.

heirs. Their vassals convened and elected their successors. The family of Tirowen renounced their allegiance, and assumed arms to defend their independence. Their efforts, however, were so ill concerted and desultory, that Sir James Crofts, the Deputy, found it not difficult to defeat them.

CHAPTER

CHAPTER VI.

Explanation of the Law of Poynings—O'Neale's Rebellion—Sir Henry Sidney Deputy—Parliament—New Counties in Connaught—Courts of Presidency—Rebellion of Desmond—New Counties in Ulster—Rebellion of Tyrone—Earl of Essex—Lord Mountjoy.

ON the accession of Mary, the restoration of the Romish faith terminated the religious dissensions; but the political animosities continued to prevail*. The business of a parliament, now assembled†, after an interval of fourteen years, consisted in establishing the former, and devising remedies for the latter. All the acts passed in the reign of Henry VIII. against the ritual of the church of Rome and the authority of the Pope, were repealed, and a bull of his Holiness was read in parliament, granting absolution to the nation for its apostacy. The districts of Leix and Ofally, the chiefs of which had been exterminated for traitorous practices,

* In the beginning of this reign Kildare was restored to his estate and honours, and Macmurchard of Leinster was created a peer, by the title of Baron Balyan. The same patent appointed him Captain of his tribe or nation; *Leland*, vol. 2. p. 206.

† 1556.

practices, were converted into counties, and vested in the crown. Leix got the name of the Queen's county, Ofally that of the King's. By another act the Lieutenant was impowered to erect all the waste land, and that belonging to towns and villages, into counties*, as he should find it practicable and convenient. Since the enactment of Poyning's law, relative to the transmission of bills for the approbation of the King and council of England, previous to the meeting of parliament, inconveniencies had arisen; because the propriety and necessity of bills did not often occur till the members were convened, and business had been commenced; and because it was doubted whether such bills could be transmitted and returned during the session of parliament; by another act, therefore, of this parliament, that inconvenience was removed. It was declared competent and lawful to transmit new bills during the sessions, and that these bills, if returned in the usual manner, might be passed into laws, as if they had been transmitted previous to the meeting of parliament. This addition completed the act of Poyning's, and left it in the condition in which it still continues to be executed. A subsidy of thirteen shillings and fourpence, imposed on every ploughland, was granted to the Queen, to enable her Majesty to repress rebellions, and to repel the invasions of the Scots. The usual feuds among the chiefs

* According to *Sir John Davies*, in the end of the reign of Henry VIII. there were only thirteen counties and thirty four boroughs which sent representatives to parliament, so that the House of Commons could not consist of so many as an hundred members. The House of Peers could not be near so numerous, because the nobles were then very few, and the Bishops of the Pale only were summoned to that House; *Speech to Parliament*, An. 1613. *Leland, Append.* vol. 2.

chiefs and desultory invasions of the Pale, continued during the remainder of the present reign, but they had little influence on the political state of the kingdom.

The resources of Elizabeth were greater than those of any former sovereign of England, and the vigour of her administration was equal to her resources. Her rivals and enemies were numerous and powerful; the utmost vigilance was, therefore, requisite to detect their designs, and to frustrate their operations. Ireland was a part of her dominions, from which the thrones of her ancestors had frequently been attempted to be shaken; she had no reason to doubt, that the factious leaders and chiefs of that island would be again excited to rebellion; and her sagacity perceived the necessity of sending such a force against them as might be sufficient to conquer all opposition. It was accordingly reserved for Elizabeth to accomplish the reduction of Ireland.

Among the first acts of her government was the appointment of a parliament to be held at Dublin * by her Lieutenant the Earl of Suffex, in order to re-establish the reformation of religion. The laws passed in England relative to the same subject, were the models of those enacted in Ireland; and, although such members only were summoned, or gave their attendance, who were not supposed violent enemies to the business to be transacted; yet the intentions of the Queen were accomplished with difficulty, and

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* An. 1560, the House of Commons consisted of no more than seventy-six members. Ten counties only sent any members; the rest came from boroughs. The Prelates amounted to nineteen, and the Peers seem not to have been numerous; *Le-land*, vol. 2. p. 224.

the parliament was dissolved in a few weeks. The minds of the Irish, unenlightened and unpolished, retained all their attachments to the old religion, and beheld the reformation with that antipathy with which true catholics abhor heresy.

No parliaments were convened in Ireland for the nine subsequent years, as the attention of the Queen and her Irish administration was occupied by the most formidable rebellion which had hitherto appeared in that kingdom. Shane O'Neale, the potent chief of Ulster, a man of enterprise and ambition, and actuated by those sentiments of heroism and pride which sometimes inspire the breasts of savages, claimed that province as the royal demesnes of his ancestors, and took up arms, first to expel all English intruders, and next to assert his independence in opposition to the crown of England. His force was so formidable, and his success so great, while the troops of the Pale were insufficient to oppose him, that the Deputy had recourse to negotiation, in order to avert an attack he was unable to repel. He consented that O'Neale should be bound only to acknowledge the sovereignty of the Queen, but should retain all the lands and privileges he possessed; and he prevailed with him to repair to London, that the pacification might be ratified by her Majesty in person. O'Neale undertook the journey, and approached the Queen in all the rude parade of a savage monarch, instead of assuming the appearance and behaviour of a subject. He was received with complaisance, and dismissed with presents. He considered the interview as a treaty between independent sovereigns, rather than an acknowledgment of submission. His reputation and influence among his countrymen were augmented by the accounts he related

ted of his conduct and reception; and it appeared, that nothing but force could reduce him to the rank of a subject.

Sir Henry Sidney, the Deputy, proceeded with vigour and address in the prosecution of the war against O'Neale. He detached from his interest several of the Irish chiefs, whom that rebel had treated with violence and injustice. He planted a garrison in Lough Foile, which consisted of a thousand English soldiers; and, with the standing forces of the Pale, amounting to twelve hundred men, he marched into the province of Ulster. The undisciplined troops of O'Neale either deserted on the approach of danger, or were easily dispersed. The chieftain resolved, in this extremity, to throw himself at the feet of the Deputy, and to implore his mercy; but he despaired of success, changed his resolution, and repaired to a small body of Scots troops who had invaded Ulster. He was slain by their leader, in a scuffle which ensued. His head was conveyed to the Deputy to be fixed on the castle of Dublin, and the next parliament forfeited all his lands to the crown*. This parliament was continued, by various prorogations, for two years and a half, and passed several other acts which merit attention. The contests about religion had introduced a spirit of opposition to the measures of the court. The returns of elections were examined with more than ordinary zeal,

* *Irish Statutes.* It is curious to observe in the act of forfeiture, the parliament deriving the title of the sovereigns of England to the crown of Ireland from the fabulous King Gurmond, son of Belim King of England, which Gurmond was Lord of Bayon in Spain, and conducted the first Irishmen into Ireland. They next advance successively the conquests made by Henry II. Richard II. and Sir Henry Sidney, as grounds of the same title.

zeal, several irregularities were detected, and the legality of the parliament itself was contested. These disputes were, however, allayed, by calling in the judges to deliver their opinions concerning the points in dispute, and the members, at last, proceeded to business. The usual subsidy of thirteen shillings and fourpence on every plough-land, was granted to the Queen for ten years, in compensation for the "grievous imposts of coigne and livery." "Captainships," or the power of levying troops, and maintaining them at the expence of the people, under pretence of defending the rights of the crown, by which "every man had as much right as force would give him leave," were taken from "the Lords and great men of the realm," and all persons were prohibited to assume the title "of Captains of any shire-ground, without letters patent from the crown." To promote the reformation of religion, and to prevent the appointment of immoral or vicious ecclesiastics to the benefices of Munster and Connaught, the right of presentation, for ten years, was vested in the Lieutenant. To restrain extravagant use of wines, a duty was imposed of forty shillings a ton on Spanish, and twenty-six shillings and eight-pence on French wines, imported in Irish or English vessels; but, if imported in foreign vessels, the rates demanded were four marks for Spanish, and forty shillings for French wines. All wines were to be imported, and the duty paid at particular ports*, under pain of forfeiture. To encourage
submissions

* The ports specified are, Dublin, Waterford, Cork, Limerick, Drogheda, Galway, Youghall, Carrickfergus, Wexford, Ross, Kinsale, Dongarvon, Dundalk, Sligo, and Dingle husey. *Irish Statutes.*

submissions among the Irish and degenerate English, the Deputy and council were authorised, on receiving the Queen's permission, to accept the surrender of lands, held according to the Irish laws, and to return them to the owners, under the usual services of the law of England. The most remarkable business, however, was the suspension of the law of Poynings relative to the statutes of this parliament, which was declared to be done in compliment to the loyalty and zeal of Lord Deputy Sidney; but, to prevent an example of such dangerous consequence from being established as a precedent, another act was made, which pretended to communicate to the law of Poynings an authority more durable than that of any other law of Ireland. It was ordained that no bill should be transmitted for its repeal, which did not previously obtain the approbation of the majority of both houses of parliament. The irregularities and partiality prevalent in the parliaments of Ireland, must have been enormous, when the people considered this act as their best security against "acts passed by governours, as well to the dishonour of the Prince, as to the hinderance of their subjects*.

The execution of the laws was still extremely imperfect; so that these commendable acts were not productive of that emolument to the public which might have been expected. Seven new counties † were erected in Connaught; but the Deputy, instead of appointing sheriffs to preside in them and the counties of Munster, instituted two provincial courts of presidency, one in each

F f province.

* Irish Statutes.
and Roscommon.

† Annaly, Clare, Thomond, Sligo, Leitrim, Mayo,

province. The judges of these courts were endowed with discretionary powers, and possessed both military and civil jurisdiction*. The forfeited lands in Ulster were not appropriated, but the Irish chiefs were permitted to possess them. Little care was taken to nominate proper ecclesiastics to vacant bishoprics, and the crown frequently neglected to exercise its right of presentation. The Deputy, after a progress through the provinces, to prevent or to suppress insurrections, resigned his government, and returned to England.

He had scarcely left the island, when its affairs relapsed into confusion, while Lieutenants were incapable to reduce them to order, or to preserve the peace. Plans were proposed for transporting English colonies to occupy the forfeited lands of Ulster; but the civil government could not protect the adventurers, and they were expelled from their settlements by the natives. The English cabinet complained of the expence to which they were exposed by supporting the administration of Ireland; so that Sir Henry Sidney was again requested to accept the office of governor, and to devise some means of raising the necessary supplies within the kingdom†. He accepted the office, and formed a scheme

* Sidney's Letters, vol. i. p. 48.

† The following are extracts from two letters written by Sir Francis Walsingham, secretary of state, to Lord Deputy Sidney, in the month of July 1576. "Glad I am to see your Lordship write so confidentially touching the hope you have to disburden, shortly, this crown of the intollerable charges that that realm putteth it unto." Again, "Your Lordship lacketh no good friends here to stand with you in your good causes, especially seeing, among other things, the end and scope of your service

scheme which was to convert the purveyance, still competent to be demanded from the Pale, for the maintenance of the Deputy's household and the royal garrisons, into a tax, which might be equivalent to the purposes in view. The tax was estimated at ten or twelve pounds for each plough-land; and, as it was too heavy to expect the concurrence of parliament for the levying of it, he proposed that it should be collected by authority of the prerogative.

He had scarcely landed in Ireland, and published this plan of taxation, before the people were in a ferment. Lords and Commons, Citizens, and Peasants, concurred in unanimous remonstrance against it. They complained of the exorbitancy of the sum to be raised, of the illegality of the method by which it was to be imposed, of the infidelity of the Deputy in representing their country as able to pay it, and they agreed to send commissioners to England to lay their situation before the Queen. In vain did the governor reply, that the royal prerogative was indisputable, and that the purveyance to be converted into a tax had always been collected by that authority.

The English ministry quickly perceived that the measure was impracticable in its full extent, and that some abatement must be made; but that this might be done with the better grace, the
Queen

service is to spare the treasure of this realm, and to make Ireland bear her own charges;" *Sidneys Letters*, vol. 1. p. 123. and 125. In another letter of this secretary, the annual expence of the government of Ireland is stated at L. 26,000, of which Ireland paid only L. 6000. If this state be just, the revenue of Ireland had diminished since the days of Edward III. pag. 53. The reader will find this letter, Appendix, No. IV.

Queen pretended to be chiefly concerned for her prerogative. She ordered, that the Irish commissioners should be committed to prison for having presumed to circumscribe it; that the persons who had signed the petition should share the same fate, unless they retracted their offensive opinions; and that all lawyers who had been present at the framing of the petition, and had not supported the prerogative, should be dismissed from their employments. These severities, instead of allaying, inflamed the spirit of opposition. Men's minds were roused to a pitch of vehemence which prepared them for any desperate enterprise. A general revolt was apprehended. The Queen was averse to push matters to an extremity so dangerous; she commanded, therefore, that the prisoners should be released, and that the Deputy should accommodate the dispute upon the best terms he could obtain. It was settled by a composition, which was to continue for seven years, and was fixed by the Deputy and council, with the concurrence of the landholders of the Pale*.

These commotions were succeeded by the famous rebellion of Desmond, which lasted four years, and exhibited many scenes of dismal distress. It originated from that restless ambition which inspired the enemies of Elizabeth, artfully combined with the aversion entertained by her Irish subjects against the reformed religion which she had established. Both the Pope and the King
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* Camden ad an. 1576. Leland, vol. 2, p. 262. This composition is, perhaps, the same with that which, eleven years after, under the Lieutenancy of Sir William Fitz-Williams, is said to have amounted to L. 2100. Fitz-Williams was the first governor who had the sum of L. 1000 allowed out of it for the maintenance of his household; *Ware's Antiq.* p. 99.

of Spain prompted and supported it with zeal. The former by admonitions, indulgencies, and promises of eternal rewards; the latter by considerable remittances, both of money and troops. Fitz-Morris, an Hibernian exile, was the first agent they employed. He received from the Pope a consecrated banner, and from the King of Spain, three ships, in which were embarked about one hundred soldiers, and with these he landed in the south of Ireland. Two brothers of Desmond joined the invaders on their landing; but the Earl did not yet openly espouse their cause. Sir William Pelham, the Lieutenant, had reduced them to great distress, when a reinforcement of 700 Italians and Spaniards arrived to their aid, and added new vigour to their operations. Elizabeth perceived the full extent of the danger that threatened her dominions, and poured in troops to suppress the rebellion. No less than 6000 men were detached from England, at different times, in the course of this war, who finally triumphed against all opposition. Most of the foreigners were put to death, and all the leaders of the rebellion lost their lives on the scaffold or in the field. Desmond was deserted by his followers, and wandered for some time a miserable fugitive in the woods. He was, finally, surrounded by a party of royalists, in a hut, who having cut off his head, conveyed it to the Queen, where it was impaled on London bridge. His large estates in Munster were conveyed to the crown, and his honours were extinguished; which, added to the numerous forfeitures of his associates in the same province, left the greater part of it at the disposal of her Majesty*. Toward the end of this rebellion, the office of Lieutenant

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* Cambden ad an. 1579. &c. Irish Statutes.

was put in commission, and two Lord Deputies were appointed. The intention of the Queen, perhaps, was, that one should attend to the administration of government, while the other dedicated his abilities to the business of the war.

Immediately after these convulsions, Sir John Perrot, a man of activity and discretion, well qualified for the important station, was appointed Deputy. He had formed the most liberal schemes for the improvement of the country; but he was not supported by the court of England to put them in execution. He proposed to divide the whole island into counties, and to incorporate the settlers with the natives, by obliging both to take part in the legislative department of government, and to contribute their proportion of the expence required by the executive. He demanded fifty thousand pounds annually, to be granted him for three years, in which period he undertook to maintain 2000 foot, and 400 horse, to fortify seven towns, build seven bridges, and to erect seven garrisons, disposed in such a manner over the island, as might effectually secure it against insurrections and invasions.

The zeal and discernment of Perrot were honoured with the approbation of the Queen and her ministers; but it was not thought adviseable to advance the money. The deputy was therefore obliged to relinquish the greater part of his scheme of reformation, and to confine himself to the part of it which was practicable by means of the resources he possessed. He first undertook an expedition into Ulster, infested by inroads from Scotland, which were favoured by several of the natives. He expelled the former, reduced the latter to obedience, and received
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from all the inhabitants the most zealous acknowledgments of loyalty and attachment. In this favourable disposition of their minds, he ventured to recommend the security and happiness they might expect from the benefit of English government and law. He prevailed with them to consent to settle their disputes by peaceable appeals to the King's judges, instead of having recourse to the decision of the sword. He divided the province into seven counties *, and proposed that they should elect members for the ensuing parliament, which he intended to convene at Dublin. He persuaded several of their chiefs to surrender their lands, that they might receive them from the Queen by legal tenures; but, what was more extraordinary, he induced them to grant a subsidy sufficient to maintain eleven hundred troops to defend their country, without demanding aid from government. These engagements were not altogether neglected. Several of the Ulster chiefs repaired to the castle of Dublin in the dress of Englishmen; and several of the new boroughs sent Irish representatives to the house of commons. New peers also of Irish race, both spiritual and temporal, appeared for the first time in the house of Lords.

Little business was transacted in this parliament, which was continued two years, except the passing of the acts of attainder against the persons concerned in the rebellion of Desmond †. An

interesting

* Ardmagh, Monaghan, Tirone, Coleraine, Donnegal, Fermanagh, and Cavan, *Life of Perrot.*

† Five hundred and seventy-four thousand six hundred and twenty-eight acres of land

interesting debate was agitated in the beginning of the session, concerning the suspension of Poynings act, which was proposed and urged by the friends of the court, as a compliment to the loyalty and fidelity of the Lord Lieutenant; but was opposed and defeated by the party who pretended to maintain the principles of liberty and the rights of the people. It is evident, from the repeated and earnest precautions with which the Irish guarded the continuance of the act of Poynings, that they considered the dispositions of their deputies as much more hostile to their liberties than those of their Sovereigns. The people seem to have held the notion, that the former were animated by views inconsistent with their interest; that they were eager to recommend themselves to the crown, by extending the prerogative, and increasing the revenue; or, perhaps, that they wished to augment the public burdens; because, with less suspicion, they might appropriate part of the money to their own use. The short time Lieutenants usually continued in their government, the little attachment they could be supposed to entertain toward the inhabitants, and the little knowledge they could generally acquire of their characters and conditions, prompted, perhaps, such sentiments*.

Ireland remained not long in tranquillity after the departure of Perrot, who resigned his office to Sir William Fitz-Williams †.

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land are said to have been forfeited by Desmond's rebellion. Elizabeth granted a great part of them to English adventurers; *Moryson*, book 1.

* Leland, vol. 2. p. 296.

† Ann. 1589. The following extract from the proceedings of the commissioners appointed by Sir John Perrot for the settling of Connaught, will furnish some idea of
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The new sheriffs who had been lately appointed in Ulster and Connaught, had behaved with insolence and rapacity, which irritated, instead of conciliating the minds of the Irish. New disorders and insurrections commenced; and Tyrone, who had been honoured with the title of Earl Tirowen, and a grant of the lands of his relation Shane O'Neale, began to prepare himself for that bold defiance he intended to offer to the authority of his sovereign, whose bounty had supplied him with the means of rebellion. He trained his vassals to war, under pretence of supporting the civil government; and he is said to have converted into bullets a quantity of lead which he transported to Ulster, under the appearance of covering his house. These circumstances render it probable that Tyrone was then ambitious of regaining the antient sovereignty of his family, and had resolved to seize the first seasonable opportunity of asserting it. He continued, however, for some time, to repeat his professions of loyalty, though the violence and oppression of Fitz-Williams had given him and the other Irish chiefs just cause of offence, and perhaps induced him to take up arms sooner than he intended. The Queen sent

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of the population and culture of Ireland at this period: "In Ulster, Connaught, Meath, Leinster, and Munster, are contained 184 cantreds, otherwise called hundreds or baronies, viz. in Leinster 31, in Connaught 30, in Munster 70, in Meath 18, and in Ulster 35. In Ireland are 5493 towns," (each containing 8 plough-lands and pasture for 300 cows,) "in Leinster 930, in Connaught 900, in Munster 2100, in Ulster 1050, and in Meath 515. Every cantred contains 160 plough-lands of arable, besides the pasture of 300 kine in every town. Every plough-land containeth 120 acres, every acre 4 roods or perches in breadth, and in length 40 perches. Every perch is 21 feet, and 3 feet is a yard;" *Ware's Antiq.* p. 225.

Sir John Norris with three thousand troops to Ireland, and Tyrone commenced his operations by expelling the royal garrison from the fort of Blackwater. The events of this war exhibit an uncommon picture of ambition, treachery, and dissimulation, on the part of the Irish chief, and of irresolute and desultory conduct on the part of the Queen. The principles of the former were to employ force when it could be done with success, in opposition to the most solemn professions and engagements, but to renew these professions and engagements, when any advantage could be gained by them. The Queen, on the other hand, deeply involved in the French and Spanish wars, was anxious on any conditions to terminate hostilities in Ireland.

Sir John Norris had scarcely landed, when Elizabeth sent orders to negotiate a peace, which so elated the rebels, that they insisted on conditions too extravagant to be granted. The royal army marched into Ulster, and compelled the rebels to desert their towns, and shelter themselves in the woods. Tyrone had recourse to the most humiliating professions of submission, while he instigated secretly the other Irish chiefs to rebellion, and implored the aid of the Pope and the King of Spain. Norris no sooner relinquished Ulster, and marched to suppress some insurrections in Connaught, than Tyrone attacked the garrison of Armagh, and obliged it to surrender. Norris revisits Ulster; Tyrone is intimidated; a new commission arrives to treat with the rebels, and the latter repeats his professions of submission, with the most solemn asseverations of sincerity. He returned home, began to train his vassals to war, and to collect around him the disaffected chiefs from all quarters of the island.

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The Queen now entrusted the management of the war to the Earl of Ormond, but the civil government to the Archbishop of Dublin and the Chief Justice*. Hostilities commenced, and the rebels defeated the royal army, near the fort of Blackwater. It was commanded by Bagnal, consisted of 4500 foot, and 500 horse, and is said to have lost, in this ill conducted battle, 500 men killed, beside the wounded. The action had the most powerful effect. Tyrone was celebrated as a hero and the deliverer of his country, while the disaffected Irish in all the provinces abetted his cause, and sent him assistance. The most violent outrages were committed on the loyalists, who fled every where from the country to shelter themselves in the towns, against the fury of their enemies. The Queen, irritated at this defeat, and offended with the conduct of Ormond, dismissed him from his command, and nominated Sir Samuel Bagnal to that office, who was to carry with him a reinforcement of 2000 men. She had scarcely adopted this arrangement, when she received intelligence that the King of Spain intended to invade her dominions with a great armament, part of which was to make a descent in Ireland, in support of the rebels. She perceived, therefore, the necessity of turning her attention seriously to the commotions of that island, and of sending over such an army as might be sufficient to insure success against the machinations and violence of her enemies. The Earl of Essex

* *Moryson*, Book I. In this war two foster-brothers of the Earl of Kildare had been killed in rescuing him from the hands of the rebels. His gratitude and attachment so deeply affected his mind that he did not long survive them. Are not human affections, in a great measure, the offspring of habits?

Essex was appointed Lieutenant, and 20,000 men were ordered to attend him. The powers contained in his commission were more ample than had been those of any former Lieutenant for many years past. He was vested with authority to pardon treasons, confer employments, remove exceptionable officers, and to conduct the war as he pleased *.

The Irish rebels were not dismayed with the arrival of Essex and his army. They foresaw the approach of the storm, and had prepared themselves with assiduity to oppose it. They had collected an army equal in number to that of their enemies, not inferior even in discipline; and they had stationed detachments in such a manner, as to counteract any plan of operations the English commander might adopt. Essex first marched the greater part of his army against the insurgents of Munster, and totally dispersed them; but this success was compensated by a defeat of a considerable body of his troops in Leinster. He solicited a reinforcement of 2000 men, which being obtained, he undertook his capital expedition into Ulster, where Tyrone waited his approach with an army of 9000 foot and 1400 horse.

The royal army had suffered great diminution by desertion, by occasional skirmishes, in which the rebels were often successful, and by detachments to occupy garrisons and posts, so that Essex entered Ulster with an army, consisting of no more than 3500 foot and 300 horse. Tyrone expected to destroy even this small force by protracting the war, without fighting, and had recourse to his former method of negotiation. He is said to have
conducted

* Rymer, tom. 16. p. 66.

conducted himself, in an interview with the Lieutenant, at the ford of Ballaclinch, with such art, as to induce that Lord to avow some favourite schemes of ambition, and to insinuate so favourable an opinion of his own sincerity, that, notwithstanding all his former acts of infidelity, Essex resolved to open a treaty with him*. The designs of Tyrone succeeded to his wish. A truce was stipulated for six weeks; and Essex undertook to transmit the demands of the rebels to the throne. This transaction was scarcely terminated, when the Deputy, mortified with a letter of severe censure† received from the Queen, relinquished his government, without leave, unexpectedly presented himself in the Royal presence, and was conveyed from it to prison.

Tyrone assumed the popular title of Defender of the Catholic Faith, was honoured by the Pope with a present of a hallowed plume, and, having received a large reinforcement from the King of Spain, without waiting for a discussion of his demands by the court of England, commenced hostilities as soon as he found them advantageous to his cause. He published a manifesto filled with threatenings against all Irishmen who would not join his standard, but with the most flattering promises to those who supported him. He reprobated the authority of the heretical Queen of England, and insinuated his pretensions to the crown of Ireland.

Lord Mountjoy was now appointed Lieutenant, and was sent over without any reinforcement, though the English army in Ire-

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* Moryson, Book 1. Cambden ad an, 1599.

† Appendix, No. V.

land was diminished to 12000 foot and 1200 horse*; the rebels were in possession of the greater part of the island; the friends of government and the army were discouraged; and, to add to their other causes of mortification, the Earl of Ormond had treacherously permitted himself to be taken prisoner. Mountjoy conducted the war with much prudence and vigour, but with a severity for which nothing could apologize, but the necessity of his situation. He planted strong garrisons in different parts of the island, particularly in Ulster, and permitted them to distress the rebels in their neighbourhood, by destroying the crop, and wasting the country. He marched an army into that country with so much caution, that even Tyrone could gain no advantage against him, and was compelled to retire in disgrace to his woods. He detached the Irish chiefs from their leader, and perpetuated their enmity to him by conferring on them large portions of his lands. He counteracted the designs of the Irish, by adopting their own mode of carrying on the war, by marching his troops in small bodies, and by surprising his enemies with occasional attacks, in which he was almost always successful.

While Mountjoy reduced the northern rebels to the greatest distress, Sir George Carew, president of Munster, repressed and defeated the efforts of those in the south. The war appeared to hasten towards a favourable conclusion, and nothing prevented a general submission, but the reports, industriously propagated, of large reinforcements to be expected from Spain. The Spanish
succours,

* By a copy of the muster of this army, preserved by Moryson, the expence of it for a year is found to amount to L. 208,911; *Moryson, ad an. 1599.* Appendix, No. VII.

succours, conveyed in fifty vessels, seventeen of which were ships of war, at last appeared on the coast, and 6000 additional troops arrived from England. The Spaniards, to the amount of 6000, occupied the town of Kinsale. Mountjoy sat down before the town, and besieged it in form, while the rebel leaders from Ulster and Connaught assembled their forces, and marched to raise the siege. The English general attacked the rebels with vigour, gained a complete victory, and Tyrone, deserted by most of his followers, hid himself in the woods of Ulster. The Spaniards, deprived of all hope of reinforcement or supply, and surrounded by a powerful army, began to deliberate about capitulating. They were permitted to leave the island without molestation.

The departure of the Spaniards sunk the rebels into despondency, and a general disposition prevailed to return to their allegiance. Tyrone in earnest sued for peace; and, so impatient were the English ministry of the continuation of the war, that his solicitations were listened to with favour. He was restored to his honours and estate, excepting only those parts of his lands which had been granted to other chiefs, or which had been occupied by royal forts. The surrender of Tyrone was followed by the submission of all the other leaders; and a rebellion which had continued for eight years, which had cost England the sum of L. 1,198,717, beside the loss of many men*, and which threatened, in its course, the expulsion of the English from Ireland, was happily terminated by a complete reduction of all the revolted provinces. The power of the crown, after a contest of 440 years, was,

* Borlase, ad an. 1599.

was, for the first time, extended over all the island, and a force was retained in it sufficient to support that power. The minds of men, fatiated with the horrid scenes of war, were sincerely disposed to taste the blessings of peace. A series of disorders, devastations, and bloodshed, prepared them to receive, with uncommon readiness, those civil regulations which it was the intention of the succeeding monarch to introduce.

CHAPTER

CHAPTER VII.

Civil Arrangements of James I.—Itinerant Judges—Sheriffs—General Establishment of English Law—Irish Tenures converted into English—Settlement of the forfeited Lands in Ulster—Parliament—Violent Contentions between the Protestants and Catholics—Statutes—Revenue—Charles I.—Graces—Lord Wentworth.

AFTER publishing under the great seal an act of state, called an Act of Oblivion, by which all former treasons and crimes were pardoned and extinguished, James commenced his scheme of reformation. Tyrone and Tirconnel were erected into counties, and itinerant judges, for the first time, visited the province of Ulster. Similar circuits of assize were appointed for the provinces of Munster and Connaught; where they had been discontinued for two hundred years. Even the province of Leinster needed reformation. The Brehon law was expelled from the mountains on the southside of Dublin, where it had long been cherished by the Irish, and a sheriff was settled in the new county of Wicklow. In each of the thirty-two counties, into which the whole island was divided, sheriffs were stationed, the Irish law, with its practices of tanistry and gavelkind, was abolished; the number of the judges was increased in proportion to their addi-

tional business, and they were enjoined to perform their circuits twice a year*.

The decency, the dignity, and regularity with which these courts were held, had the most powerful and salutary effect on the minds of the people. They began to conceive of law as connected with equity and reason, not as dependent on authority and force. They viewed, with astonishment, the excellence of a constitution which dispensed equal measure to men of all ranks, subjecting the passions and the crimes of the least and the greatest of the people to the same principles of judgment. But these provisions for the execution of justice were not more acceptable to the people, whom they relieved from oppression, than they were disagreeable to the Irish chiefs, who had long been in use to exercise it. The chiefs considered the introduction of justice as the annihilation of their influence, and of many of their resources. They could not endure the humiliating condition of being brought to the same tribunal with the persons to whom they had been accustomed to dictate the law; and many of them, rather than suffer a reverse of fortune so dismal, deserted their country, and retired to the Continent. "As extortion," says Sir John Davies†, "banished the old English freeholders, who could not live but under the law; so the law banished the Irish Lord, who could not live but by extortion." Civilization also, and the arts of peace, began to make progress among the people. Intercourse with the English became more frequent and safe. Their dress, manners, and language, gradually diffused themselves; while government,

* Carte's Ormond, vol. 1. p. 14.

† Pag. 269.

government, in return, obtained complete knowledge of the country, particularly of those woods and defiles, into which the Irish in distress were accustomed to retreat.

To these arrangements for the general support of law and justice, were added, regulations relative to private property and the settlement of the forfeited lands. With regard to property, two notorious abuses needed reformation. Almost all the inferior vassals of the kingdom held their lands by the old Irish tenures, and were subjected to the extortions and services authorized by the Brehon law. A statute had indeed been made in the 12th year of the reign of Elizabeth, by which the Lord Deputy was empowered to accept the surrender of lands, and to re-grant them by English tenures; but few of the yeomanry had claimed the benefit of this law. The great landholders only had obtained new charters, while their dependants and vassals remained in their former condition, exposed to all the exactions of rapacious chiefs.

The act of the 11th of Elizabeth, which abolished "Captainships,*" had permitted the Lord Lieutenant to constitute such offices by patent, and many of the Irish chiefs had the influence to obtain them. These legal captains had become more formidable than their predecessors. They practiced all their violence and extortion, while the oppressed subject had not even the consolation of maintaining, that the injustice he suffered was contrary to law. In vain was it to frame good laws, and to secure the execution of them by the establishment of circuits, and the appointment of sheriffs. These fertile roots of tyranny and disorder, interwoven with

* Pag. 112.

with the constitution itself, must have obstructed or defeated the most salutary arrangements.

The King proceeded with caution and address in this delicate and difficult part of his plan of reformation. He appointed commissioners to accept the surrender of the lands of vassals of all ranks, and to re-convey these lands according to the common law. They were to inquire, first, concerning the limits of the estate of every proprietor; next, what quantity of it remained in his natural possession, what was parcelled out among his vassals and retainers, and, thirdly, what rents, duties, or services he received annually from these vassals. These preliminaries being settled, they re-granted the estate in the following manner. They conveyed to the superior full property of the lands he possessed, to which they added a sum of money to be paid by his vassals, equal to a reasonable valuation of all the duties and services he had been in use to receive from them. To the vassals they gave the property of the lands formerly held by them, as tenants of the superior, burdened, however, with the rent arising from this conversion of their services into money. All future patents for captainships were prohibited.

The last great object, in the pacification of Ireland, was the settlement of the escheated lands in the province of Ulster. A great part of them had fallen to the crown by the forfeitures incurred in the last rebellion, and to these had been added, lately, the extensive estates of Tyrone and Tirconnel, who, on being suspected of treasonable practices, had deserted their country, and fled to the Continent. The greater part of the territory of six counties, Armagh, Tyrone, Coleraine, Donnegal, Fermanagh, and Cavan, opened

pened a large field for the exercise of the royal wisdom in the plantation of colonies; and it must be admitted, that the regulations adopted were dictated with discernment.

The lands were divided in three proportions; the first consisted of 2000 English acres, the second of 1500, and the third of 1000. One half of the forfeited lands in each county was converted into estates of 1000 acres; the other half afforded one fourth for estates of 2000, and another fourth for those of 1500. The King exacted a rent from the English or Scots proprietor, after the rate of six shillings and eight pence for every sixty acres; but from an Irish proprietor he demanded the double of that rent. The undertakers of 2000 acres were to hold of the King, *in capite*, those of 1500 by knights service, and those of 1000 by soccage. Every proprietor of 2000 acres was bound to build, in two years, upon his land, a castle, surrounded with a strong court-wall or bawn. Every proprietor of 1500 was to build, in the same time, a stone or brick house, environed with a bawn; and every proprietor of 1000 was to build a bawn at least.

These are the capital conditions on which was conducted the plantation of Ulster. Many adventurers of eminence appeared to claim a share in a scheme so equitable and promising; and the corporation of London solicited large grants of land in the county of Derry. Their settlement obtained the name of London-derry. They undertook to spend L. 20,000 in transporting settlers, and in building the towns of Derry and Colerain. To procure some military force for the defence of these new settlements, the King

instituted the order of knights called Baronets, the patents of whose titles he proposed to sell, and to employ the money for the protection of the colonists. The order was to consist of no more than two hundred companions, and each knight was to pay for his admission as much money as would be sufficient to maintain, for three years, thirty men for the defence of the province of Ulster.

Such are the outlines of the policy * pursued by James with regard to Ireland, during the first ten years of his reign. If it was not attended with that complete reformation which a sanguine politician might have expected, it introduced many important improvements, and afforded good security against the recurrence of those calamities which had formerly desolated the country. The passions and interests of men often circumscribe or frustrate the effects of the most salutary arrangements; and all plans of policy, the object of which is to change the manners and customs of a country, are of slow operation.

Amidst the convulsions of rebellion and the establishment of such extensive schemes of reformation, no parliament had been held for twenty seven years in Ireland. The King's title to the crown had not been recognised, several forfeitures had been incurred, and some new laws were necessary, adapted to the improved state of the kingdom; a parliament was, therefore, proposed to be convened. During this reign, the statutes of the second of Elizabeth, enjoining uniformity of common prayer and service in the church, and commanding the oath of supremacy

* Orders for the plantation of Ulster. Appendix, No. VI.

cy to be taken by all persons who held offices ecclesiastical or civil, sued for livery of lands, did homage to the King, or received any degree of the university, had been enforced with more perseverance and severity than had been done in the preceding reign. While the Protestants, on one hand, approved these rigours, the Catholics complained of them as the offspring of cruelty and injustice. The passions of the parties were engaged; and they misrepresented and traduced one another with that malignity with which religious controversy generally taints the minds of men. The prospect of a meeting of parliament called forth the most strenuous exertions of both parties, in order to procure some resolutions of that assembly favourable to the cause they maintained. As the King had pressed compliance with the penal statutes, and had erected forty new boroughs in the seventeen counties he had appointed, several of which boroughs were small villages only belonging to the colonists of Ulster, he was supposed to lean to the side of the Protestants. The time of the meeting approached, and no communication of the business to be introduced had been made, in the usual manner, by the Deputy and council to the Lords of the Pale. The latter were alarmed, and six of them * ventured to subscribe a petition to the crown, in which they complained of not being consulted by the council, of the rigour with which Papists were excluded from offices of trust, and of the violence done to their constitution, by bestowing on a few insignificant cottages the privileges of boroughs, because these were inhabited by Protestants.

James

* Gormanston, Slane, Kileen, Trimbleston, Dunfany, and Lowth.

James received this remonstrance with marks of dissatisfaction, which contributed to inflame animosities; and the parliament, after every art had been used to influence the elections, assembled at Dublin, composed of men animated with the keenest antipathy against one another. The house of Lords consisted of twenty-five Peers, and as many Prelates, the greater part of whom were attached to government. To the house of Commons had been returned no fewer than two hundred and thirty-two members, who had all taken their seats, except six. Of those present, one hundred and twenty-five were Protestants; the Catholics amounted to one hundred and one. The parties in the house of Commons made the first experiment of their strength in the election of a speaker, for which office the candidate of the Protestants was Sir John Davies, who was attorney general, and was recommended by the King; of the Catholics, Sir John Everard, who had been a judge of the King's Bench, and had resigned his office, because he could not hold it without taking the oath of supremacy. The Catholics perceived that their antagonists were superior in number; but they contended that many of them were not duly elected. When, therefore, the friends of Sir John Davies retired on the division for the election of the speaker, they refused to allow themselves to be counted; they insisted that they only were the members legally chosen, and immediately placed their speaker Sir John Everard in the chair. The Protestant party returned, loaded them with reproaches of dissimulation and irregularity, and proceeded to pull their speaker from his seat. The Catholics opposed this act of violence, and the Protestants could only place Davies on the knee of Everard. The tumult was terminated by the withdrawing

drawing of the Catholics from the house, and by their refusing obstinately to recognize the election of Sir John Davies. The Catholics in the Upper House declared their dissatisfaction by a similar secession. All the Catholics in Dublin were highly incensed, and nothing was heard among them but complaints of persecution and injustice; mixed with threatenings of resistance. Their resources were considerable, their dependants numerous*, and the military force of the kingdom had been reduced to 1700 foot and 200 horse.

Chichester the deputy, to the offence of the Protestants, who reproached him with tameness, if not with insincerity, endeavoured to conciliate the Catholics by the most temperate and condescending offers of accommodation; and, that time might be gained for pacific operations, he suspended the public business by a prorogation. They were, however, rather inflamed than mollified by these marks of attention. They proceeded to name commissioners, who should repair to London to lay their grievances before the King; they collected a large sum of money to defray the expence of the expedition; and they transmitted a letter to his Majesty containing almost a denunciation of rebellion, unless the abnoxious measures were relinquished. James received the commissioners with favour, and listened to their complaints with patience, so that they anticipated a favourable issue of their business, and communicated their hopes to their friends. The King, however, would pass no judgment till he had summoned the Deputy to appear in London to defend his conduct; when he

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resolved

* Some of the Irish nobles were escorted by a retinue of two hundred men. All of them had extraordinary attendants.

resolved to allow the commissioners to plead their cause in presence of his council. The commissioners were repeatedly and fully heard before his Majesty delivered the judgment of the council. He declared all their complaints of the late elections to be groundless, except those relative to two boroughs which had returned members, though the dates of their creation were posterior to that of the writs of election. He reproached them with undutiful and tumultuary behaviour, and threatened punishment unless compensation should be made by more peaceable demeanour. He complained of the ingratitude of the Irish, and "protested, that he had been more careful for the bills to be passed in their parliament than those in the parliament of England." The commissioners returned home disconcerted, but not satisfied. They communicated their sentiments to their constituents; and the Deputy, by prudent management, prevailed with both parties to permit the public business to proceed, by suspending farther controversies concerning elections *.

The first act of this assembly was, "a most joyful and just recognition of his Majesty's lawful, undoubted, and absolute right and title to the crown of Ireland." It begins with a complimentary recapitulation of the civil regulations, and wise arrangements, established by the King in that country; and concludes, by deriving his right of succession from Margaret, eldest sister of Henry VIII. The parliament next proceeded to pass a general act of indemnity, with regard to all forfeitures incurred, and treasons committed, within the kingdom, except those of Tyrone, Tyrconnell,

* An. 1614. Cartes life of Ormond, lib. 1. p. 22.

Tyrconnell, and O'Dogharty, whose estates were vested in the crown. To encourage the new plantations, and to promote communication between the native Irish and the English, all the old acts which stigmatized the Irish as enemies, and prohibited intercourse with them by traffic, marriage, or fostering, were repealed. An entire subsidy, consisting of two shillings and eightpence a pound on personal estates, and of four shillings a pound on the rents of land, was appointed to be paid into the exchequer, to relieve the crown of England from the "continual burden" to which it had been subjected, by the "infinite treasures" it had spent, in supporting the government of the realm of Ireland. Several other statutes were made relative to the police of the country, and the punishment of crimes; after which a dissolution terminated the parliamentary business of Ireland during the reign of James I.

The King was so gratified with the success of his arrangements in the settlement of Ulster, that he proposed to extend his scheme of reformation to the province of Leinster, in which many tribes of disorderly and wandering Irish still subsisted. He issued a commission of inquiry into the titles by which the chiefs of these tribes held their lands; and, as the greater part of the titles were found invalid, either in consequence of the King's right of conquest, or the violent intrusion of the possessors, he procured another extensive field for colonization, amounting to no less than four hundred and sixty-one thousand acres. The King intended that these lands should be settled on a plan more favourable to the inhabitants than had been executed in the northern province; that one fourth part of them only should be assigned to British adven-
turers,

turers, while the Irish should appropriate the remaining parts. But these instructions were notoriously violated; and the natives, in some places, were scarcely permitted to retain one third part of their possessions. The complaints resulting from these acts of injustice, the disaffection occasioned by the execution of the penal statutes, and the humiliation of the nobles, arising from the abrogation of Irish dependencies, would, at any former period, have excited commotions dangerous to the state; but the calamities of the late rebellion filled the minds of all ranks with horror; and the security and happiness derived to the great body of the people, from the general extension of the benefits of English law, disposed them to be satisfied with an administration the most perfect they had experienced. Commerce and arts began to flourish. The revenue of the customs had been improved from fifty, to nine thousand seven hundred pounds a year, during the reign of the King, and that of the court of wards from one thousand to ten thousand. The whole revenue, however, was still found inadequate to the expences of government, by the annual sum of sixteen thousand pounds. In the last years of his reign, James augmented his Irish army to four thousand men, in consequence of his war with Spain, and that for the recovery of the Palatinate. Charles I. found it necessary to continue the same military establishment.

Charles commenced his administration with one of those unconstitutional transactions, which characterise his government, and which involved him and his dominions in the deepest distress. Instead of applying to parliament, in order to procure money for supporting the four thousand troops which had lately been raised in Ireland,

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land, he commenced a negotiation with the landholders, by which the latter engaged to advance, in three years, one hundred and twenty thousand pounds, in compensation for all subsidies, and in consideration of certain political reformatations, called *Graces* *, which they were to receive from the crown. The graces were most of them substantial improvements of the constitution, and afforded general satisfaction to the Irish, except the relaxation of the penal statutes in favour of Catholics who were lawyers, or who held *in capite* of the crown. These were permitted, the former to practise in courts of law, and the latter to sue liveries, and grants depending in the court of wards, after signifying, upon oath, an acknowledgment only, that King Charles “was the lawful and rightful King of the realm.” The Catholics considered this relaxation as a testimony of their merit in advancing nearly two thirds of the subsidy, and as an earnest of future indulgencies. They, therefore, conducted themselves as if a toleration, at least, had already been granted them. They celebrated the rites of their religion in public, in defiance of the authority of the magistrate and the laws; and contributed, by their imprudence, to disturb the peace, and to embroil the affairs of their country.

Lord Wentworth had scarcely assumed the office of viceroy † when he found the last subsidy expended, and a debt contracted upon the revenue to the amount of one hundred and six thousand pounds, while the annual expence exceeded the annual income

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* Appendix, No. VIII.

† Ann. 1603.

by twenty thousand pounds *. He prevailed with the landholders to afford a temporary aid by a subscription of twenty thousand pounds, and proposed to assemble a parliament in order to procure more copious and effectual supply. By management of the elections, by insinuations of farther graces on one hand, and of inquiries into the titles of estates on the other, he procured a majority in the house of Commons favourable to the views of government, notwithstanding the intrigues of the Catholics ; and he found means to persuade that house to grant much larger sums of money to the crown than had been furnished by any preceding parliament. No less than six subsidies were voted. Each subsidy was raised by a land-tax of four shillings in the pound, and an impost of two shillings and eight-pence on all moveable goods of the value of one pound, and amounted to forty-five thousand pounds. The whole was to be paid in four years. To compensate for this liberality, and to fulfil, in part, the King's engagements signified by the graces, another act was made, "confirming letters patent hereafter to be passed upon his Majesty's commission for the remedy of defective titles." The session was terminated by a prorogation, after it had continued about three weeks.

Having finished the business of the parliament, the Deputy turned his attention to the state of the church, with a view to accomplish the religious designs of the King, who anxiously longed for an exact conformity in doctrine and worship between the churches

* Strafford's letters, vol. i. p. 287.

churches of England and Ireland. The Irish protestant church had hitherto adopted no established system of faith; most of the clergy were exceedingly ignorant, their livings were contemptible*, and many of their houses and churches lay in ruins. Usher, the most learned theologian of that church, was inclined to the doctrines of Calvin, and those of the Huguenots of France. His sanctity and knowledge rendered his influence considerable among ecclesiastics of such inferior endowments, and prompted Wentworth more strenuously to oppose the propagation of religious opinions, which had been reprobated by Queen Elizabeth, and were disagreeable to the King. To promote his operations by acquiring popularity among the clergy, he exerted all his power for the augmentation of their livings and the improvement of their manners. He procured from the lay-proprietors resignations of the church-lands which they had appropriated at the reformation; and he prevailed with the King to grant to the clergy the impropriations vested in the crown, with the reversion of those which had been alienated for a limited time. He united smaller bishoprics, and persuaded the great landholders to repair and rebuild churches.

These eminent services were proper preliminaries to the assembling of a convocation, in which the Deputy expected to procure the establishment of doctrines, which he had reason to apprehend

* In the province of Connaught there was scarcely a vicar whose annual income exceeded forty shillings. Many vicars had no more than sixteen shillings. The bishoprics of Waterford, Kilfenora, and others, did not exceed fifty pounds. Those of Cloyne and Kilmaclough were not more than five marks. *Carte's Ormond*, p. 68.

prehend were not acceptable to the greater part of the members. His influence, however, and zeal surmounted all opposition. The convocation met at Dublin *, and having taken into consideration the articles of the church of England, after a slight discussion of their orthodoxy, they declared them to be the doctrines of the church of Ireland, by a judgment so nearly unanimous, that one member only offered his dissent. The Lieutenant finally prevailed with the Irish clergy to gratify the crown by marks of their attachment still more substantial. They passed an "instrument" that was ratified in parliament, by which they granted to the crown eight subsidies of four shillings for every pound of the annual produce of their benefices, payable in eight years, beside the tax of one twentieth imposed by the statute of the twenty-eighth of Henry VIII †.

The parliament was convened during the meeting of the convention, and the business was conducted with little opposition. The new statutes regarded chiefly the correction of abuses in the conveyance of land, the advancement of agriculture, the improvement of the police, and the punishment of felonies. An act was passed which introduced and established the laws made in England for "the good of the subject" since the time of Henry VII. Both houses joined in an address to the Deputy, requesting that his Majesty would be pleased to erect a mint in Ireland, or to permit the project to be executed by adventurers. Wentworth expressed a favourable opinion of the design, and
promised

* 1634.

† Irish statutes.

promised to support it with all his interest; but the King's council of England did not think proper to countenance it. Some difference of sentiment, and some disputation, took place in the house of Commons relative to the graces, and the members supplicated the Deputy they might undergo a review in council, that it might be determined which of them were proper to be passed into laws, and which to be continued as part of the instructions of governours. The viceroy complied with the solicitations of the Commons, and delivered the result of the deliberations of the council by a speech in parliament.

Having dissolved the parliament*, Wentworth applied himself to the improvement of the revenue. He collected large sums of money by compositions for new grants of lands which were held by defective titles in Connaught, and levied fines from the colonists of Ulster, who had incurred the forfeiture of their charters by the violation of the articles of their settlement. The tribe of the Byrnes paid fifteen thousand pounds for legal titles to their lands; and the city of London offered thirty thousand pounds to prevent the forfeiture of their plantation of Londonderry and Coleraine. The latter sum was judged unsatisfactory, and a prosecution was commenced against the corporation in the star-chamber of England. They were enjoined to pay a fine of seventy thousand pounds, and their settlement besides was declared to be forfeited. The customs were raised from thirteen thousand five hundred pounds to fifteen thousand five hundred;

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* April 1639.

and other branches of the revenue were advanced in a greater proportion. The treasury of Ireland could now exhibit twenty thousand pounds after all incumbrances were discharged ; a piece of good fortune, which, perhaps, it could not boast in any former period*.

The attention of the Deputy was not confined to objects conducive to the interest of the crown. He prompted or encouraged every scheme which tended to introduce industry among the people, or to promote agriculture, trade, and manufactures. He induced the English administration to grant immediate redress relative to the taxes on coals and horses exported to Ireland, and on Irish cattle imported into England†. He equipped armed ships to expel the Biscayn pirates who infested the Irish channel, and obstructed the navigation of trading vessels. He introduced the manufacture of linen, by importing flax-seed from Holland, by promoting the growth of flax, and by procuring manufacturers from the Netherlands and France. He even advanced thirty thousand pounds from his private fortune for the encouragement of this useful and national design. The executive department of government was maintained with vigour ; and every violation of the law was punished with impartiality.

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* Carte's Ormond, vol. 1. p. 87.

† Four shillings of duty was paid for every ton of coals imported from England into Ireland, and one shilling and sixpence for "every living beast" exported from Ireland to England ; *Carte, ut supra*. The redress specified seems to have been derived from an exertion of prerogative.

The administration of Wentworth was not, however, irreproachable. It disclosed symptoms of an arbitrary and revengeful spirit, prone to extend the prerogative, and even to pervert justice. He established a court of high commission in Dublin, and advanced the revenue, or gratified his resentment by the fines which it extorted. His treatment of Sir Piers Crosby and Lord Mountnorris admits no excuse; but, when it formed one of the chief articles on which his condemnation was founded, his punishment was too severe *.

CHAPTER

* Carte's Ormond, v. 1. p. 87. Sir Piers Crosby and Lord Mountnorris were accused of uttering words disrespectful to the Deputy. The first was subjected to a fine, by the commission court, which he was unable to pay. The latter was condemned to die by a court martial. Neither of these sentences, however, were executed. *Strafford's Trial, Rushworth.*

CHAPTER VIII.

Irish Parliament—Remonstrates against the Administration of Lord Wentworth—Adopts the Spirit of the English Commons—Queries relative to the Independence of Ireland—Royal Concessions—Causes of the Irish Rebellion—Act of Adventurers.

WHILE the seeds of that discord which soon involved the three kingdoms in civil war were profusely scattered in England and Scotland, Ireland remained in tranquillity. The Scots nobles, dreading a resumption of the church-lands, which they had appropriated during the minority of James I. instigated the ecclesiastics and the people to oppose the King's design of establishing episcopacy in their country; and having framed the *covenant*, under pretext of preserving their liberties and religion, they immediately took arms to defend the measures they had espoused. The influence of the Deputy was so considerable as to induce the Irish to support the royal cause. They advanced thirty thousand pounds toward defraying the expence of the expedition against the Scots insurgents, and reinforced the King's troops with five hundred men. They assembled an army in the northern parts

parts of Ireland, with a view to make a diversion on the west coast of Scotland; and they demanded an oath of the Scots settlers in Ulster, signifying their disapprobation of the rebellion of their countrymen.

Wentworth, now created Earl of Strafford, persuaded the Irish to gratify the King with proofs of their affection still more important. A parliament which met at Dublin * granted four subsidies, which were to be applied toward raising an additional body of 8000 foot and 1000 horse, in order to reduce the Scots to obedience; and if these sums should be found inadequate, they promised to advance two additional subsidies †. The troops were soon collected and embodied; but the money was not paid with a zeal similar to that with which it had been voted. The same spirit of disaffection seemed now to pervade Ireland which had infected England. Complaints were every where made of the exorbitancy of the subsidies; and objections were offered against the levying of them. Strafford had been obliged to repair to England to assist the King with his advice, and to defend himself against his enemies. His influence no longer preserved the attachment of the Irish to the crown; while the refractory disposition displayed by the parliament and people of England presented an example which they were much inclined to imitate.

The Irish parliament assembled ‡, and displayed the same temper which appeared in the nation. The Commons passed a resolution, that no person should be obliged to pay any tax which exceeded a tenth part of his estate, real or personal, and

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that

* An. 1639.

† Irish Statutes.

‡ June 1640.

that the amount of no subsidy should be ascertained previous to its actual collection, as had been done in the former session of parliament, but that it should be levied after an "easy and equal rate, without relation to any former certainty." So anxious were they to add authority to this resolution, that, forgetting their privileges relative to money-bills, they solicited the Lords to adopt it, and to enter it as an ordinance of their House. These proceedings had such effect, that the first subsidy which had been raised according to the method prescribed by the former session of parliament, amounted to L. 46170; but the second and third subsidies, together, afforded no greater sum than L. 26480. The last subsidy, with the sum of L. 26470, granted by the Protestant clergy, were never paid, as the commencement of the rebellion prevented the levying of them*.

When the parliament of Ireland was convened by Lord Deputy Wandesford †, the members were found to have conceived against the Earl of Strafford all the resentment and prejudices of the popular party in England. They represented as grievances the most salutary and useful acts which had been passed during his administration, and those which prohibited the burning of corn in the straw, the pulling of the wool from living sheep, and the yoking of cattle by the tail. They solicited the Lieutenant, such were their notions of liberty, to exercise a power which suspended the penalties annexed to the violation of these laws ‡. They next voted

* Carte's Ormond, vol. i. p. 102.

† October 1640.

‡ The aversion of the Irish to these acts arose from the penalties collected for the violation of them, by which a considerable sum of money was annually brought into the exchequer.

ted a remonstrance against the administration of the Earl, consisting of sixteen articles, in which they complained of the decay of trade, occasioned by illegal impositions, arbitrary proceedings in civil causes, the unlawful exercise of monopolies, the erection of the court of high commission, the misapplication of the revenue, *quo warrantos* issued against boroughs, unconstitutional influence of ministers of state; and they appointed deputies who should convey it first to the English house of Commons, and next to the King.

The Irish Commons, on this occasion, seem to have forgotten their independence and their dignity, and to have condescended to act the ignoble part of agents of the popular faction in England. As a preparation for the reception of their remonstrance, the English Commons had appointed a committee * of the whole house, which was to meet every Thursday, to take into consideration the grievances of Ireland. To this committee the Irish deputies communicated their remonstrance, which was presented to the House on the 20th of November. The speaker of the committee reported, at the same time, That "trade was destroyed in Ireland, industry disheartened, unlawful impositions were imposed, and his Majesty's gracious inclination for the good of his people was kept from them †."

The King intended to commit the government of Ireland to the Earl of Ormond; but that appointment having been opposed by the Irish deputies, he intrusted it to two Lords Justices, Lord Dillon, attached to the crown, and Sir William Parsons, a partizan

* Journals, November 6th 1640.

† Journals.

partizan of the Puritanic faction. He removed Lord Dillon on some frivolous exceptions urged against him by the deputies, and assigned the government to Sir William Parsons and Sir John Borlase, men destitute of abilities for executing, with advantage, the office they held, and disposed to countenance the measures of the popular party. He even condescended to make farther concessions. He consented that the Irish subsidies should be levied in the manner prescribed by their house of Commons, by which the third subsidy was reduced from L. 46170 to L. 11000, and that all his correspondence with his ministers of that kingdom should be deposited in the signet-office, where every subject might inspect it, and might demand copies of all papers necessary to authenticate the grievances of which he complained.

The Irish parliament * assembled, for the third time, in less than twelve months. The Commons displayed a disposition to avail themselves of the embarrassment of the King's affairs, and to imitate the encroachments of the English house of Commons. They instructed their agents to solicit the King "that a bill might be transmitted to explain some doubtful points of the law of Poynings, and to enable a committee of Commons to frame and transmit bills during the sitting of Parliament; that neither the Earl of Strafford nor his friends should be intrusted with any office in the government of Ireland; and that the preamble of the act of subsidies passed in their first session, which contained a high encomium on the administration of that nobleman, might be erased from the records." The Lords formed a declaration of grievances

* January 1641.

ces similar to the remonstrance of the Commons, consisting of eighteen articles, in which they complained that the estates of the nobility were over-rated in levying the subsidies; that civil causes were determined at the council-board; that the resolutions of parliament were influenced by ministers; that unlawful monopolies were granted; and that the subject was oppressed by clerks and custom-house officers. They ordered this declaration to be conveyed to a committee of their house, composed of Peers then residing in London, who were empowered to present it to the King.

The English Commons, during these transactions, which tended to promote their views, and extend their power, gradually incroached on the jurisdiction of the Irish parliament itself. They received complaints, not only of national grievances, but of those of individuals; and many petitioners resorted to their bar soliciting redress against the judgments of the courts of Ireland. They even summoned the bishop of Ardagh to appear before them to defend his cause, in an appeal which had been brought against a decision pronounced in his favour. The Irish house of Peers resented this infringement of their privileges, and commanded the chancellor to inform the English speaker, "That they did not think fit to license the bishop's departure into England, and that they were confident the house of Commons in England would not proceed to any determination of a cause in which a member of their House was concerned, but rather remit the cause to the parliament of Ireland." They proceeded farther, and enjoined their "committee attending the King, to become humble suitors to his Majesty, for preventing hereafter the members and

attendants of their house from being summoned to appear in the parliament of England, and before committees of the house of Commons upon private men's suits *."

The Irish Commons proceed with a spirit of incroachment and violence, similar to that which animated the Commons of England. They presented bills of impeachment against Lord Chancellor Bolton, the Bishop of Derry, and Sir Gerard Lowther, because these gentlemen were supposed partizans of Lord Strafford, and might be employed as useful witnesses in his defence. They undertook a formal examination of the constitution relative to the power and authority of the chief governour and the privy council, the force of proclamations and acts of state, the jurisdiction of the exchequer, high commission, and other courts; the credit of witnesses, the censures of jurors, martial law, *quo warrantos*, tenures, and monopolies, which they comprised in twenty-one queries, and demanded upon them the opinions of the judges. They finally required a redress of all grievances.

When Strafford was condemned, the end was gained for which the impeachments had been devised, and the prosecution of them was relinquished; but the Commons resolved to obtain some determination relative to the queries. They requested the Lords to join them in demanding the opinions of the judges, and discovered symptoms of dissatisfaction when the Peers hesitated concerning the propriety of the measure, and proposed that the judges should not be obliged to "answer any thing which might trench on the King's prerogative, or that might not stand with the duties
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* Carte's Ormond, vol. 1. p. 123.

of their places." They informed the Upper House, That, unless they were supported by their concurrence in requiring the opinions of the judges, they would transmit the queries to the committee in England, and would empower them to request the judgment of the English house of Commons. The Lords consented that the judges should deliver their opinions in writing, before the meeting of parliament in the month of May of the same year.

The judges felt the embarrassment into which they were thrown by this extraordinary requisition. They represented, by petition to the Lords, the exceeding delicacy and danger of their situation in offering their opinions concerning the privileges of parliament, and the powers of the high commission court, without a special license from his Majesty. They complained, that the queries were not expressed with precision, and that they were in hazard, by their answers, of exposing themselves to impeachments. The Commons, however, would not recede from their order, and the Lords continued their concurrence.

The opinions of the judges were so general, so temperate, and communicated with so much caution, that the Commons could extract from them nothing to support the conclusions they wished to establish ; they therefore pronounced them unsatisfactory, and proceeded to deliver their own interpretation. They declared, " That the Irish were a free people, and were to be governed only according to the common law of England, the statutes established by the parliament of Ireland, and the lawful customs of the realm ; that the council-table was no court of justice ; that
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all proceedings before the chief governour and council in any action, real or personal, were void, and that all fines and punishments inflicted by them were illegal; that the decisions of the high commission court, and all writs of *quo warranto*, were illegal; that no proclamations or acts of state should alter the common law, or affect the liberty of the subject; that jurors were the sole judges of the matter in fact, and ought not to incur prosecution for their verdict, whatever it was; and that the stopping of proceedings in courts of law, upon writs or letters issued either by the King or the chief governour, was illegal."

These are the capital doctrines advanced by the Commons of Ireland, in their famous declaration concerning the queries. They were intended to circumscribe the prerogative, and to extend the liberty of the subject; but the time was not arrived, even in England, when such pure principles could be established by law. The Commons accounted them an important step toward extending their own power, rather than the ground-work of a free and equal constitution. The same legislators who contended for the independence of Ireland, scrupled not to acknowledge the supremacy of the Commons of England, by transmitting their grievances to that body, and supplicating redress. The same men who had complained of the judgments of the council, of the high commission court, and of the illegality of royal writs which interrupted the proceedings of courts of law, did not hesitate, in imitation of the English Commons, to erect themselves into a court of law, to "attach persons, restore possessions, vacate
deeds

deeds and writings, stop suits, supersede *quo warrantos*, and to annul decrees in chancery *."

In the article of grievances the King was disposed, by the perplexing situation of his affairs, to grant every satisfaction. He consented that the taxes of the nobility should be diminished; that the people of Ireland might emigrate to any part of his dominions without license; that the governour and council should not decide concerning property; that monopolies should be revoked; and that, after the Lord justices and council had determined which of the graces were most advantageous to the kingdom, bills should be transmitted for enacting them into laws. He consented farther, that *quo warrantos* should not be issued but upon just causes; that wool might be transported to England without license; that the billeting of soldiers should be regulated according to law; that the courts of wards and high commission should be guided by the practice of those of the star-chamber and the court of wards in England; but, by the advice of his Irish council, he refused to assent to an alteration of the law of Poynings, which was solicited by the committees of parliament, namely, that bills transmitted during the sitting of parliament should be framed by the governour and council, with the assistance of both houses. Beside these marks of royal favour, the English council gave their approbation to a bill by which all claims of the crown against any estate in Ireland were to suffer prescription in sixty years, and to another which relinquished the King's "right and title" to large tracts of land in the four counties of Connaught, in those of Clare, Tipperary, and Limerick, found

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* Carte's Ormond, vol. 1. p. 147.

for him by several inquisitions, and which bestowed the lands on the possessors. These graces and bills were conveyed to Ireland by the agents of that kingdom, who returned home toward the end of this year *. The graces were immediately published, and briefs were despatched to all the ports, for carrying into execution those relative to the customs, even before they were stamped with the authority of laws.

These concessions would have been granted sooner, had not the King been advised to withhold them, on account of a declaration offered by the parliament of Ireland, in an address to the King, and notified by their order to the English House of Lords. Chancellor Bolton had defended himself against the impeachment of the Irish Commons, by maintaining, that their House of Lords possessed not the power of judging in capital cases; and that, if they ever inherited this privilege, they had resigned it by the act of Poynings. The English council entertained the same opinion, and the King demanded, that the Irish Lords should produce precedents of the jurisdiction they claimed. The Lords searched their records with anxiety; but could discover no precedents posterior to the passing of the law of Poynings, though they found two previous to that aera; one in the reign of Edward II. and another in that of Henry V. Both Houses, however, in an address to the King, asserted the judicial powers of the Lords, which, it was contended, they had possessed since the conquest of Henry II. according to the common law, and the course of the parliament in England. They accounted for the deficiency of precedents,

* 1641,

precedents, partly from the embezzlement of their records during the manifold disorders of the kingdom, and partly from the surreptitious conveyance of them to England. To this address they subjoined a declaration, "That the court of parliament in Ireland hath always had, and ought to have full power and authority to hear and determine all treasons, and other offences, crimes, causes, and things whatsoever, as well capital and criminal as civil, contrived or perpetrated within that realm, and to inflict condign punishment on all offenders, according to the antient course and rights of parliament, in all times and ages, used and exercised in England."

This declaration was presented to the King; and the speaker was ordered to transmit a copy of it to the Lord-keeper of England, who was requested to communicate it to the English House of Lords. The Lords considered the declaration as an encroachment on the jurisdiction and privileges of their House; they addressed the King to withhold the graces till the matter should be investigated; and they appointed a committee to search for precedents which might certify the legal dependence of Ireland upon England. No account remains of any subsequent proceedings held in this delicate and important investigation. The civil wars in which the three kingdoms were quickly involved, suspended all regular government, and abolished every political disquisition; while the King, anxious to protract the peace of Ireland, transmitted bills for the ratification of the graces.

The condescension of the King encouraged rather than repressed rebellion: It was reputed the result of humiliation and weakness, rather than the offspring of justice and a love of liberty.

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The enemies of government, therefore, considered the disorders of England and Scotland, as affording a favourable juncture for asserting their claims, which it would be highly imprudent to neglect. These enemies were composed of the Catholics and the native Irish. The reformation had made slower progress in Ireland, than in England or Scotland; and the Catholics of that kingdom formed a more numerous and powerful body than those of either of the other two kingdoms. They held frequent intercourse with France and Italy, and were zealously attached to the religion of these countries. They had borne with impatience the public proscription of their tenets and worship; but particularly the humiliating and severe restrictions to which they were subjected by the penal statutes. Every effort had been exerted in Parliament to obtain some relaxation of the laws by which they judged themselves persecuted; but the Protestants, supported by the influence of the crown, had hitherto defeated all their attempts. They concluded, therefore, that nothing but the sword could render them justice; and to its awful decision they resolved to have recourse.

The native Irish, in the different provinces, still retained a strong tincture of the manners and sentiments of their ancestors. Proud of the antiquity of their race, fond of the profession of arms, they contemned the arts of peace and the lowly operations of agriculture. They yielded with reluctance to the wholesome restraints of English law, and wished to subsist by outrage and rapine. Many of the descendants of their antient chiefs still skulked in obscure corners of the island, or wandered miserable fugitives in foreign countries. But their most bitter resentment was prompted by the
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the forfeitures they had incurred by rebellion ; while the numerous and flourishing plantations established on their lands, particularly in Ulster, left them no hope of regaining their possessions, unless by force. These causes generated the Irish rebellion, though the leaders of it pretended to assert only the civil and religious liberties of their country. The barbarity and bloodshed with which it was conducted, corresponded to the animosities of the parties engaged *.

If some short intervals of pacification be excepted, the war continued from the year 1641, to the reduction of Ireland by Oliver Cromwell ; and, during that period, exhibited every scene of disorder and violence, which the most rancorous antipathy could devise. All regular government was suspended ; the Irish parliament was seldom assembled, and never transacted any business ; the operations of the executive department were restricted to imprisonments, tortures, and the mustering of armies. It is not, however, the province of the author to delineate the intrigues through which a war, suggested by the disorders of England, was prolonged and fomented by the factions of that kingdom ; nor to enumerate the incidents by which Ireland, pretending to vindicate her liberties, involved herself in a train of calamities so shocking and destructive, as have seldom visited any nation. These intrigues and disasters are copiously exhibited in the numerous histories of this interesting period ; but neither they, nor the civil arrangements of the subsequent usurpation, present any conclusions which illustrate the political connection between the two

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kingdoms.

* Macquire's Account. Carte's Ormond, v. 1. p. 155.

kingdoms. The act of adventurers passed by the * English parliament, forms the only exception to this remark, which, though dictated by the spirit of party, and notoriously perverted in the execution, is entitled to attention.

The parliament of England, after the impeachment of Lord Strafford, had taken uncommon concern in the management of Ireland. They had appointed committees of both Houses to consider its affairs; they had received from the Commons of that kingdom, petitions of grievances, and had afforded them redress. The object of these transactions was to detach the Irish from the interest of the crown, by which operation, the English Commons intended to remove one powerful obstruction to the encroachments they purposed to make on the prerogative. That House was animated by a similar principle with regard to the act of Adventurers. They purposed to deprive the King of the resources which he might acquire by Irish forfeitures, and to alienate them toward supporting their own usurpations. The King, compelled by necessity, or, perhaps, expecting to appropriate some part of the spoils, by which he might better counteract the designs of his enemies, gave his assent to the bill.

The purpose of the act of adventurers was to raise by subscription a million of money, upon the security of two millions and a half of forfeited acres in Ireland, which were to be divided by lot among the subscribers as soon as the two houses of parliament should declare the rebellion to be ended. The survey of the forfeited lands, and the assignment of them to subscribers, were
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* An, 1642.

vested in commissioners appointed by the Lords and Commons ; and the money subscribed was ordered to be paid to persons of their nomination, who were to give attendance at the chamber of London to receive it. The money was to be applied to the reduction of the Irish rebels only ; but the parliament soon employed the greater part of it for maintaining the rebellion in England *. Since the passing of the act in the reign of Richard II. which granted two third parts of the estates of absentees to the crown, the English parliament had framed no statute which manifested so decisively as the act of adventurers the supremacy of the jurisdiction they claimed over Ireland. Part of it, however, invaded the prerogative ; some people perhaps will account other parts of it palpable encroachments on the independence of that kingdom. The King gave his assent to the bill, though he knew it deprived him of his rights ; and such of late had been the attachment and complaisance of the Irish houses of parliament to those of England, that, had the former been permitted to meet, it is not improbable they would have reputed the law a mark of friendship, rather than a grievance.

CHAPTER

* Carte's Ormond, vol. i. p. 302.

CHAPTER IX.

Restoration—Adventurers—Soldiers—Catholics—English Act of Indemnity—Royal Declaration—Irish Acts of Settlement and Explanation—Act prohibiting the Importation of Irish Cattle—Reflections—Irish Petitions addressed to the English House of Commons—Committees of Inquiry—Revenue—Measures of James II.—His Operations in Ireland—English Acts abrogating the Proceedings of the Irish Parliament—and appointing Oaths and a Declaration for Ireland.

AS the horrors of civil war, and the tyranny of an usurpation, had diffused general detestation of the republican and Puritannic principles, which banished the royal family, and destroyed the constitution; so the restoration of the former, and re-establishment of the latter, afforded universal satisfaction. The zeal of the Irish was no less conspicuous than that of the English in promoting these great events. A convention of the estates was assembled at Dublin on the seventh day of February in the year 1660, by a committee of the principal officers of the army; and the members proceeded to business in defiance of orders despatched from the English council of state for their dissolution. They signified their detestation of the King's murder, and of the proceedings

proceedings of the high court of justice. They published a declaration for a free parliament, and inveighed against the injustice offered to the members secluded from the parliament of England. They voted a loyal address to his Majesty, which they appointed to be presented by commissioners, who, at the same time, were to carry handsome presents to the King and his two brothers. They instructed the commissioners to beseech his Majesty to summon a parliament composed of protestants, and to constitute a governor and council in Ireland, in order to transmit bills to the King and council of England. They requested acts of indemnity and attainder, under such exceptions as might be approved by the ensuing parliament; a confirmation of all judicial proceedings, and of the transactions of the convention; and particularly a settlement of the estates of adventurers and soldiers. They solicited farther, in behalf of the church, that all forfeited impropriate tythes, and all impropriations which then were, or by expiration of leases would be in the disposal of the crown, should be granted to the clergy; and that all forfeited lands which had been exempted from the payment of tythes, whether in the possession of the King or of adventurers and soldiers, should be subjected to that burden, and should be bestowed on the same order of men*.

While the commissioners repaired to the Continent to attend his Majesty, the different parties of Ireland beheld the proceedings of the English parliament in the most anxious suspense. An act of indemnity was preparing to be passed on the arrival of the

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* Carte's Ormond, vol. 2. p. 204.

King, and they were particularly solicitous that no clauses inserted in it should be detrimental to their claims. The parties chiefly concerned were the planters, who had advanced money and obtained lands upon the authority of the act of adventurers, made in the year 1642; the soldiers who had served during the rebellion, and who had received or expected to receive grants of land in lieu of their arrears; and the Papists, who solicited restitution of the property from which they had been ejected by the long parliament at the termination of the rebellion in the year 1653.

The adventurers were a numerous body, and were vested in their lands by the long parliament, when the Catholics were ejected. Nine principal counties were declared forfeited; one moiety of which was assigned to the adventurers, while the other moiety was allotted to the soldiers who had served in the army of the parliament. But many other soldiers who had been attached to the Royal cause, and had therefore received no gratification, remained to be indemnified, and this indemnification they now expected from the bounty of the King. The ejected Catholics and the native Irish, by a regulation of the same parliament, were to be confined to the province of Connaught; so that, being separated from the new planters by the river Shannon and a line of English garrisons, they might neither corrupt them by their intercourse, nor disturb them by their incursions.*

As the Protestants gained influence in the army and the civil government, the Catholics were subjected to restrictions more severe.

* Leland, vol. 3. p. 396.

severe. They were represented as a race of men whom it was impossible to preserve in peace, without depriving them of all power. Plots, massacres, and rebellions, were declared to be congenial to their dispositions, while it was supposed impossible to bind them by the common ties of honour, justice, and truth. They were, therefore, prohibited to pass from one province to another. Many of them were thrown into prisons; their correspondence was intercepted; and they were forbidden to assemble in order to consult about their common interest. The convention of estates which declared for the King, was composed of Protestants zealous to support the interest of the planters, and to prevent the extension of any favour to the Catholics. The Protestants were solicitous to procure the exception of the Catholics from the benefit of the act of indemnity: The latter expected to obtain an alleviation of their distresses, and the restitution of the lands of which they had been deprived by an odious usurpation. The convention, the adventurers, and others concerned in the plantations of Ireland, appointed agents to solicit the protection of the parliament of England; but the severe restrictions imposed on the Catholics allowed them not to despatch deputies to defend their claims.

The representations of the Irish agents were calculated to inflame the parliament against the Catholics. They urged, that nothing could secure the settlements of the adventurers, and the peace of Ireland, but the proscription of that party; because their interest being considerable, and their activity great, their influence would soon preponderate in parliament, from which might be expected to result, disorders similar to those of the late civil wars. The parliament adopted the views of the agents; and, in compliance

compliance with the solicitations of the convention, the only civil power existing in Ireland, they excluded from the benefit of the indemnity, "all persons who had any hand in plotting, contriving, or designing the heinous rebellion of Ireland, or in aiding, assisting, or abetting the same." But they restored the estates of the Marquis of Ormond and Lord Inchiquin, which had been taken from them by the long parliament. By this act the lives and fortunes of the greater part of the antient inhabitants were affected. Many of the most opulent and powerful families were Catholic; and the prevalence of that persuasion had hitherto been very general among the people. The rebellion had continued so long, and had spread so wide, so many people had engaged in it, and so many more had held intercourse with the rebels, that few of that party were secure against prosecutions and the penalties of treason. The English parliament, however, did not interpose farther in the affairs of Ireland; the settlement of that kingdom was left to the King and its own Houses of Parliament.

To prepare matters for this settlement, the King published a declaration, containing a plan for satisfying, as far as possible, the demands of the different classes of claimants, adventurers, soldiers, and Catholics; and soon after, he summoned a parliament to pass it into a law. The parliament assembled at Dublin on the 8th of May 1661, the lower House being composed chiefly of Protestants, as the influence of the adventurers and soldiers had prevailed in the elections. The business was conducted with little opposition. The arrangements proposed in the declaration were generally adopted in the act; and, though it was impossible

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to please all parties, none had reason to complain of total neglect. The adventurers had the lands confirmed to them, of which they were in possession in the year 1659. All officers and soldiers were to receive, immediately, partial compensation for their arrears, by grants of houses and lands, and were to expect full satisfaction in a future period. Innocent Papists were to be restored to their estates, as soon as the adventurers or soldiers, on whom they had been bestowed, should receive an equivalent. Five commissioners, all Englishmen, were appointed to execute the act, to examine and judge the different claims; and, in cases of difficulty, were empowered to consult the Lord Lieutenant and Council *. The tedious discussions and intricate investigations which arose in distributing justice, the frequent difficulties which obliged the commissioners to have recourse to the Lieutenant and Council for advice, and, finally, to the parliament, for an act of explanation, protracted the completion of the settlement till the year 1666. But this happy event had scarcely taken place, when new commotions were in hazard of arising, from an act of the English parliament prohibiting the importation of Irish cattle †.

Several incidents concurred, after the restoration, to discourage industry, and to reduce the value of land in England. Many of the Puritans had retired to Holland and America in quest of religious liberty. Multitudes of manufacturers had fallen in the civil wars. The war with Holland had obstructed trade. The plague had farther diminished the number of the people, and lessened the demand for provisions. From these causes, the land-

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* Irish Statutes.

† English Statutes, ad. an. 1666.

rents of the kingdom were computed to have decreased L. 200,000 a-year, and the proprietors became impatient under this reduction of their income. The low price of cattle was judged the chief source of this distress; and that low price was imputed to the importation of cattle from Ireland and Scotland. By inquiry made in the year 1663, it was found, that, for the three years preceding, sixty-one thousand fat cattle, beside sheep, had annually been imported from Ireland, and that Scotland had sent large quantities to the same market. Had the cattle been imported lean, and afterwards fattened on English pastures, no detriment, it was supposed, would be incurred by the grazier, who would gain the great difference of price between buying lean and selling fat. It was well known, that fat cattle were found in Ireland and Scotland only in the summer months; and, to prevent the importation of them, a clause was inserted in an act made for the encouragement of trade*, that a duty of forty shillings should be paid for every "head of great cattle, ten shillings for every sheep imported from Ireland, between the 1st day of July, and the 20th day of December;" and that equal sums should be paid, for similar importations from Scotland, between the 1st day of August, and the 20th day of December.

It was soon discovered that the remedy provided by this statute had proved inadequate to the evil, though it had reduced Ireland to the deepest distress. The rents of land in England had not been augmented, while the price of cattle in Ireland had been reduced from fifty shillings to ten. The importation, however, of lean cattle,

* English Statutes, 1663.

cattle, swine, and sheep, was continued, and the House of Commons, guided by a partial and interested system of policy, were disposed to consider it as the chief cause of their grievances. In vain did the opposers of the bill maintain, that the present distresses originated from other causes than the importation of Irish cattle; that England could gain nothing by the passing of the bill; while Ireland, little versant in agriculture, and unacquainted with manufactures, possessed no means of procuring money but the sale of her cattle. The Commons persisted in their resolution of prohibiting the importation of cattle, sheep, swine, beef, pork, and bacon from Ireland, or any place beyond seas, by pronouncing these commodities liable to forfeiture. They brought in a bill for this purpose, which passed quickly through their house, though it was carried only by 165 votes against 104. The King was known to disapprove it, and the Chancellor and Solicitor-general opposed it in both Houses. To preclude the exertion of the dispensing power, the Commons declared the importation a *nuisance*, and obstinately required the replacing of that offensive word, after it had been expunged by the upper house, the words "detriment or mischief" being inserted in its place. The Lords finally passed the bill, which was supported by sixty-three votes against forty-seven; and the King, unwilling to endanger the supplies by counteracting the inclinations of the Commons in a matter in which they appeared so earnest, honoured it with the royal assent. To compensate, however, in some measure, the inconveniencies resulting from the act, the King, in the following year, with the
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* Statutes at large.

advice of his Council, removed, by proclamation, all "restraints on the exportation of commodities of the growth or manufacture of Ireland to foreign parts, which did not interfere with the laws relative to the trade of the English plantations, or the charters of the East-India, Turkey, or Canary companies*".

That the advantages gained to the English graziers by this statute were not imaginary, was manifest immediately after it was enacted. The price of butcher-meat was considerably advanced before the termination of the session of parliament. In the year 1668, the act was made perpetual, and the importation of lambs, butter, and cheese from Ireland, was subjected to similar forfeitures.

However detrimental this statute was immediately to Ireland, and ultimately, perhaps, to England, candour must admit, that it was the result of no plan of oppression adopted by the King and his ministers. During the progress of the bill through the two houses, the King openly avowed his disapprobation, threatened to withhold his assent; and, so much was he supposed in earnest, that it was suspected by the Commons he would set it aside when passed into an act, by his dispensing power. Several of his servants declaimed against it with earnestness and perseverance; and even the members of the cabal, who are said to have patronized it, are not accused of being actuated by any other motive, than a desire to embroil the affairs of Ireland, in order to remove their enemy Ormond from the government of that kingdom. The interests of the two nations, on this occasion, were supposed to interfere,

* Carte's Ormond, vol. 2. p. 344.

interfere, and the act was the offspring of the impatience of the country gentlemen, prompted by the diminution of their rents. Communities frequently disregard all principles of honour and justice when important advantages are to be gained: It will not, therefore, excite much surprise, that, in such cases, they should respect little those of generosity and liberal policy. The English parliament, in a more enlightened age, adopted more liberal principles. In the year 1758, they permitted the free importation of Irish cattle for a limited time; and before the expiration of this act, another, made in 1765, continued the privilege for seven years, and then to the end of the next session of parliament*.

The Irish commissioners had now † passed judgment on most of the claims presented to them; but all parties were not satisfied. Petitions for redress were frequently presented to the English and Irish councils, and sometimes to the English Commons, who seem to have been fond of retaining the prerogative they had lately exercised, of interposing in the management of Ireland. The Irish petitioners were disposed to address their complaints to the Commons, because they expected from that House more patient hearing, and more equitable decision, than they had reason to hope from the council. The members of the cabinet encouraged them from another, and less justifiable motive; they wished to persuade the Commons to impeach the Duke of Ormond; and they concluded, that the matter of the petitions would both inflame and afford the Commons articles of accusation. But the conduct of Ormond

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* English Statutes.

† 1667.

was as irreproachable as the designs of his enemies were insidious.

Two of these petitions appeared this year in the house of Commons; one intreating relief against a judgment given by the Lord Lieutenant and council of Ireland; the other supplicating, in behalf of the adventurers, the full benefit of the act passed in the year 1642, on the credit of which they had advanced their money. The first claimed compensation from the forfeited lands in Ireland, for some services performed at sea against the rebels of that island, when the act of settlement had provided no reward for such services; the second requested, that the adventurers should obtain their full complement of land, when they had agreed, and their assent had been ratified by the act of explanation, to be satisfied with two thirds of that complement. Both petitions were received, read, and debated in the House of Commons. It does not appear what judgment was passed upon the former; but the latter was thought so unreasonable in itself, that, while the granting of it involved the worst consequences to the peace of Ireland, by undoing the whole act of settlement, all the intrigues of the cabal were ineffectual, and it was dismissed*.

The designs of the enemies of Ormond were defeated in the House of Commons, but were successful with the King. The dismissal of that popular and meritorious viceroy was intended to be the opening of the system of politics adopted by the cabinet, namely, to re-establish Popery, and on this foundation to erect arbitrary power†. The Duke was accordingly removed‡, with

* Carte's Ormond, vol. 2. p. 359. Journals.
Appendix, chap. 1.

† Dalrymple's Memoirs,
‡ 1669.

with much reluctance on the part of his Majesty; and the cabal continued their operations by the appointment, first of Lord Roberts, and soon after of Lord Berkeley, to the Lieutenancy. The latter was attended by Sir Ellis Leighton, the favourite of the Duke of Buckingham, in the character of secretary.

The Irish Catholics quickly felt the countenance shown them by this arrangement, and did not fail to avail themselves of it with a spirit of violence and triumph. The anti-remonstrant clergy, who maintained the supremacy of the Pope, held frequent provincial assemblies, reprobated the opinions of the remonstrant Catholics, who acknowledged the supremacy of the King, exclaimed against the partiality of the government of Ormond, maintained correspondence with the Pope's Nuncio at Brussels, and, it is said, with some of the members of the Cabal. Peter Talbot, created by the Pope Archbishop of Dublin, had the presumption to appear before the council in the habit of his order, and was permitted by the deputy to retire without reprehension. He celebrated mass in the most public manner in Dublin, and was favoured with the use of the plate and furniture of the castle, to render the ceremonial more splendid. Even commissions of justices of the peace were granted to Catholics, and they were admitted to the privileges of members in corporations.

Encouraged by these marks of favour, a number of Catholic Lords and gentlemen framed petitions to be presented to the King and parliament of England, in which they requested, that some impartial persons should be appointed to receive information of their grievances; and that, in the mean time, his Majesty would be pleased to prohibit the disposal of lands in the gift of the crown.

crown. They represented that they had suffered the most flagrant injustice; that they had been dispossessed of their estates for their loyalty, and had failed in the recovery of them by the acts of settlement, because they were not permitted to make known the justice of their pretensions. This petition, which included several misrepresentations, aimed at nothing less than a review of the act of settlement, and all the arrangements of the court of claims. If granted, it would have inflamed every Protestant in Ireland, and thrown the whole kingdom into confusion. The Duke of Ormond, therefore, opposed it with zeal, in a committee empowered to consider it. Sir Heneage Finch, the Attorney General, to whom it was referred for his advice, concurred in opinion with the Duke, and offered to the council a report very unfavourable to the views of the petitioners *. Another committee, from which Ormond was excluded, was appointed to "revise all papers and orders for the settlement of Ireland, and to represent the defects of papers or warrants for justifying any clauses contrary to the King's declaration." Their report was erroneous, and afforded no satisfaction. A third committee was named, and several months were spent in investigations and inquiries; but, before these could be finished, Ireland was filled with alarm, and even England began to be agitated. The Ministry perceived their precipitation, dreaded the resentment of parliament, and wished to transfer the public censure from themselves to the Lieutenant, by sending the Earl of Essex to supersede him in his government.

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* Cartes Ormond, v. 2. Appendix p. 71.

Though the offensive measures were at present relinquished; yet the Commons were of opinion, that the past transactions merited their attention. They presented an address to his Majesty, requesting, “That he would be pleased to maintain the acts of settlement and explanation, and to recal his commission of inquiry into Irish affairs, as containing many new and extraordinary powers, not only to the prejudice of particular persons, but in a manner to the overthrow of the said acts, and to the shaking of the peace and security of the whole kingdom; that no Papists should be continued, or hereafter admitted to be judges, justices of the peace, sheriffs, coroners, or mayors: That no Papist should be admitted to inhabit in any corporation; and that his Majesty’s letters and proclamation, giving a license for that purpose, should be recalled.” This address produced the effect intended. The letters of dispensation were revoked, the commission was superseded, and the countenance shown to Catholics withdrawn.

As the late disturbances had partly originated from corporations, Essex composed “rules for the better regulation of their elections, which rules governours and council were impowered to frame by the act of settlement*.” These regulations enjoined, that all magistrates should obtain the approbation of the Lieutenant and council, before they assumed their offices, should take the oaths of supremacy and allegiance, and should swear “that it is not lawful, on any pretence whatsoever, to take arms against the King; and that they abhorred the traitorous position

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* Irish statutes, 1665.

of taking arms by his authority against his person." The last oath was abolished by an act passed in the fourth year of George I. †.

When the measures which produced the removal of Ormond were relinquished, the popularity of this nobleman in Ireland, the intimate knowledge he had acquired of the state of that country, and the respect entertained by the King for his loyalty and ability, soon produced his re-establishment. His first object of attention was to examine the state of the revenue and army, to rectify abuses in the collection of the former, and to render the latter sufficient for the defence of the kingdom. The revenue was farmed at L. 300,000 a year, and was found adequate to the ordinary expences of government, though the army was augmented to nine thousand one hundred and twenty foot, beside one thousand four hundred and sixty-four horse. No parliament had been held during the present reign, except that which was convened for the settlement of the kingdom immediately after the restoration; the Duke therefore advised the King to assemble the national council. Several new statutes were necessary. The decrees of the court of claims needed confirmation; vexatious commissions of inquiry after forfeited lands called for some limitation; and an act of grace and general pardon was requisite to cancel all apprehension of future prosecutions. Ormond farther insinuated, that, in compensation for these acts of grace and confirmation, the King might expect a supply of eight or twelve subsidies, each amounting to L. 15,000. Charles felt the force of these reasons, and resolved

† Irish statutes.

solved to adopt the measure; but the popish plot interrupted the execution of it; and it was never resumed during the remainder of his reign*.

Amidst the ferment which raged in England, from the Popish and other plots, Ormond, by the prudence of his government, and the firmness of his counsels, preserved Ireland in tranquillity. While the English Commons voted that a Popish plot subsisted in that kingdom, no conspirators, and scarcely an informer, could be found; though, according to the computation of an eminent calculator†, one-sixteenth part only of the inhabitants were Protestants. But, notwithstanding these eminent services, the Deputy was doomed to suffer another reverse of fortune. The King, having defeated those designs which were intended to exclude his brother from the throne, and to circumscribe the prerogative by the limits of the constitution, returned to the system of politics formerly suggested by the cabal, and committed the management of public affairs to the Duke of York. Ormond, from whom such counsels could expect no support, was removed; and the death of the King, which soon succeeded that event, left James II. at liberty to pursue the system which his brother had begun. The folly and bigotry of the latter occasioned the revolution, which preserved the liberties and religion of England.

In no period were liberty and religion in such hazard of extinction, as under the reign of James II. The revenue of Ireland was equivalent to the ordinary expence of government. The parliament of England, with uncommon generosity, had provided

* Carte's Ormond, vol. 2. p. 472.

† Sir William Petty.

provided a revenue for that kingdom equally liberal; the King was oeconomical, and Europe was at peace. These circumstances, favourable to the King's views, and which seemed to preclude even the possibility of obstruction, induced him, perhaps, so suddenly to avow his designs, and to proceed in the execution of them, with an intemperance of which the world had not hitherto supposed him capable. A train of encroachments on the laws which established the most valuable rights of the subject; a total disregard of the tempers, habits, and passions of men; a blind confidence in the success of his measures, however impracticable and unpromising, and an inattention to the most obvious consequences of the system he espoused, alienated the affections of his subjects, and hastened that revolution, which every mean but the imprudence of the monarch seemed insufficient to accomplish.

A series of counsels and operations, equally indiscreet and violent with those which took place in England, were adopted in Ireland. The militia, composed of Protestants, were disarmed, that they might be incapacitated for obstructing the operations of the King. Most of the Protestant judges, with the Attorney General, were suddenly removed, and their places filled with Catholics, who, with other Popish lawyers, were made members of the council. The King signified his pleasure, that the Catholic clergy should not be disturbed in the exercise of their religion, and that their prelates should appear in the habits of their order. Catholics were admitted into corporations and the army, and Tyrconnel, a Papist, was advanced to the office of Lieutenant

Lieutenant *. Corporations were compelled to resign their charters, and to receive new constitutions, by which it was fixed, that two-third parts of their members should be Catholics. Papists were admitted to be sheriffs of counties and fellows of the university. Such a rapid succession of impolitic measures, in three years, scarcely left the King a friend in his dominions, and prepared the British Isles for one of the most remarkable revolutions in history, effected without a struggle, and almost without drawing a sword.

The only effort of James, for the defence of his crown, was attempted in Ireland, to which he retired, by the advice of the French court, after abandoning England, and which William left defenceless, either from necessity or design. James sailed from Brest, escorted by fourteen ships of war, six frigates, and three fire ships; but his army consisted of no more troops than twelve hundred of his subjects in the pay of France, and one hundred French officers. He landed at Kinsale, and proceeded to the capital, near which he was met by the magistrates, and by a great body of Popish ecclesiastics, in their proper habits, attending the host in solemn procession. As soon as he had taken possession of the city, he commanded all Protestants who had relinquished the kingdom, to return and accept his protection. He ordered his subjects of every persuasion, to join his standard against the Prince of Orange, and he issued a proclamation for a parliament to meet at Dublin †.

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* Leland, vol. 3. p. 501.

† 7th May 1689. King's life written by himself. Macpherson's original papers, vol. 1.

Having left the memorable siege of Derry to be conducted by his officers, James assembled the parliament, composed almost entirely of Catholics. Four or five Protestant Lords only appeared in the Upper House; not more than six of the Commons were Protestants. The King opened the session by a speech, in which he declared his intention to establish liberty of conscience, to preserve the rights of property, and to give relief to such as had been injured by the acts of settlement. A bill to recognize the King's title, and to reprobate the usurpation of the Prince of Orange, first made its appearance; which was quickly followed by another to repeal the acts of settlement. Both were soon passed into laws; and to the latter was added a clause, declaring the estates forfeited of all proprietors who did not acknowledge the King's title, or who corresponded with those who rebelled against him. By another act, which breathes the same spirit with the preceding, all persons who did not return, in consequence of the King's proclamation, and all persons who resided in Britain, were presumed rebels, and their lands also were declared to be forfeited. No fewer than 2000 persons incurred, by this act, the penalties of treason. Of the remaining acts the following were the most remarkable: One declared the independence of Ireland on the parliament of England; another forbid the prosecution of writs of error, or appeal, issued from the courts of England; and a third conveyed to the Romish clergy the tythes and ecclesiastical dues payable by Catholics. But James, however willing to gratify his Irish subjects, is said to have suppressed a bill to repeal the act of Poynings, and another to erect inns of court in Ireland.

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The parliament had granted a monthly subsidy of twenty thousand pounds upon land; but, as this tax was inadequate to the expence of the civil and military establishments, the King, even while the parliament continued to sit, ventured, by proclamation, to demand another subsidy, of equal amount, from personal estates. When his Irish counsellors presumed to represent the illegality of such an impost, he replied, in the spirit of despotism, "If I cannot do this, I can do nothing." He established a mint, and issued from it copper and brass coins, which he ordered, by proclamation, to pass in payment for fourteen times their value, to the extent of a million Sterling. He afterwards doubled this nominal value; and when the Protestants, who chiefly were engaged in traffic and manufactures, had purchased quantities of the commodities of the kingdom, he scrupled not to appropriate them to make payment with this base money, at a price imposed by himself, and to export them to France, whence he expected an equivalent in gold and silver. He permitted the Catholics to seize the churches of the Protestants, contrary to his promise to protect them; he prohibited more than five Protestants to assemble in one place, on any account; and he erected a Benedictine nunnery in Dublin.

The narrative of the military operations which expelled James from Ireland, and completed the revolution, communicates no political information, and is not, therefore, included in the plan of the present work. It is, besides, too well known to require any recapitulation.

During these operations, the parliament of England was not inattentive to the state of Ireland. The Commons complained of
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the negligence of the King's ministers in not providing for its defence, and appointed a committee to inquire into the conduct of the war*. They had voted, in the preceeding year, L.604722, to maintain 22,330 men for twelve months, who were to be employed in that service; and they now passed a bill to attain all persons who had espoused the cause, and joined the army of the late King†. Their intention was to raise money for the reduction of Ireland, by the sale of the lands belonging to the rebels; but the bill was lost in the House of Lords, though they were reminded by messages from the Commons, and it was resumed in several sessions.

The commencement of the war had induced many Irish Protestants to relinquish their country and retire to England; but the proceedings of the parliament of Dublin spread general consternation. The independence of Ireland, and the repeal of the acts of settlement, foreboded the extirpation of the Protestants, and the seizure of their lands by the Catholics. The English parliament judged it necessary to interpose to declare themselves the protectors of the refugees, and the supporters of the acts of settlement. The Commons granted considerable sums for the relief of the former, and the parliament passed an act which abrogated all the proceedings of the parliament of Dublin‡.

The title of the act is, "for the security of their Majesties Protestant subjects of Ireland." It declares, that that kingdom is "annexed and united to the imperial crown of England, as well

* Journals, June 1. 1689.

† December 23. 1690.

‡ Statutes 1689.

well by the laws of this kingdom as those of Ireland; that all proceedings destitute of the authority of the King and Queen are null and void, particularly the acts or statutes of several persons lately assembled at Dublin, calling themselves a parliament: That these acts or statutes are of no force towards invalidating the sovereignty and dignities of the crown of England, or the rights and properties of their Majesties good subjects of Ireland; and that all persons who acknowledge the authority of these acts and statutes are rebels."

The English parliament were not satisfied with the security derived from this act to the Protestants of Ireland. They proceeded next year to extend the new English oaths of allegiance and supremacy to that kingdom; to appoint the place and manner in which these were to be taken; to ascertain the persons who were to take them; and to fix the forfeitures to be incurred in case of refusal. To exclude Papists from parliament and offices of trust, a declaration was added to the oaths, which every person was to make and subscribe before he was admitted to his seat or his office, and which contained a renunciation of the doctrines of transubstantiation, the adoration of saints, and the sacrifice of the mass.

The statute begins with a repeal of an Irish act of the second of Elizabeth, establishing an oath of supremacy, and appoints the new oaths, with the declaration, to be taken in its place. It ordains, that all ecclesiastical persons, all persons possessing offices in colleges or schools, all clerks in chancery, barristers and attornies, who neglected or refused to take the oaths, and make the declaration, should incur instant deprivation, beside the incapacity

city of holding in future the same offices : That all members of the Houses of Peers and Commons, before they appeared in their seats, should publicly and solemnly, in full Houses, with the speakers in their chairs, betwixt the hours of nine in the morning, and four in the afternoon, take the oaths, and subscribe the declaration ; and that, if any Peers or Commons “ presumed to offend contrary to the act,” they should be thenceforth disqualified to hold any office, civil, military, or ecclesiastical, in England, Ireland, or the plantations, to sit or vote in either House of parliament, to prosecute any suit in a court of law or equity, to be guardian of any child, executor, or administrator of any person, or to succeed to any legacy ; and should, besides, for every wilful offence against this act, forfeit the sum of five hundred pounds, to be recovered by any person who would sue for it. It ordains farther, that two or more justices of the peace, in any county or town corporate, might summon any person above the age of eighteen years, and require him to take the oath of allegiance. If he refused to take the oath, he was liable, for the first offence, to pay a fine not exceeding forty shillings, or to suffer three months imprisonment ; for the second offence, to pay a fine not exceeding ten pounds, nor less than five, or to suffer six months imprisonment ; for the third offence, to suffer forfeiture and banishment. The justices are required to summon repeatedly such offenders, till they incurred the highest penalty.

CHAPTER

C H A P T E R X.

Irish Grievances—Parliament—English Acts relative to the Exportation of Wool from Ireland—and the Irish Linen Manufacture—Act denying the Judicial Powers of the Irish House of Lords—and asserting the Supreme Jurisdiction of the English Parliament in Ireland—Review.

THE liberties of Ireland, it would seem, were supposed sufficiently secure against the encroachments of prerogative, by the declaration of rights, contained in the English act of settlement; and for this reason no declaration was demanded by the parliament of that kingdom, similar to those which had been obtained by the parliaments of England and Scotland. The Irish act of “recognition*”, is a bare acknowledgment of the undoubted title of William and Mary to the rights and prerogatives of King and Queen of Ireland. The parliament which passed this act, and another for an additional excise, was scarcely convened before it was prorogued; because the Commons refused to agree to a bill for a new land-tax, which they deemed unequal. The deputy is said to have sought a pretence for a prorogation, by proposing this bill, in order to prevent an inquiry into grievances which he apprehended. No other parliament was assembled

* Irish statutes, 1692.

remained in that kingdom till the year 1695; and, in the mean time, the two houses of parliament in England were earnestly supplicated to redress the grievances of Ireland. King William had formerly been accused of having neglected the reduction of this island; and it was now insinuated, that he connived at the irregularities committed in the civil administration, with a view to gratify his friends, whom he could no otherwise reward, by the profits of forfeited lands. Whatever was the cause, the grossest abuses had been committed. The pay of the army had been embezzled, the soldiers permitted to live at free quarters, and to levy besides heavy contributions from the subject. The forfeited estates were let at low rents; and in these leases, even the Lieutenant, and most of the friends of government, had indirectly procured a concern. Protections, purchased with money, had been granted to Catholics contrary to law, and the Protestants had not been supported in asserting their rights. Both Houses presented addresses to the King, requesting his interposition to remedy these grievances*. But, though the answer promised the

* It appears from the report of the committee of the House of Commons, appointed to inquire into the disposal of forfeited lands in Ireland, (journals 17th February 1692,) and that of the committee of the whole House which considered the state of Ireland, (24th February 1693), that the forfeited lands amounted to 1,200,000 acres, and were supposed worth from fifteen shillings to twenty shillings an acre; that the commissioners had made seizure of personal forfeitures to the value of L. 135,552, of which a small part only had been accounted for; that stores were left by the late King in different parts of the kingdom, to the amount of L. 100,000; but of these no more than the value of L. 20,000 had been brought to the treasury; and that the soldiers, beside living at free quarters, had embezzled the property of the subject to the extent of L. 200,000.

the redress of whatever might be amiss, the exceptionable measures continued to prevail *.

A new parliament was assembled at Dublin on the 27th of August 1695, by Lord Deputy Capell, the members of which seem to have been more tractable than those of the parliament 1692. They did not resume the offensive subject of grievances, and seem to have made no inquiries about the embezzlement of the revenue, or the management of the forfeited estates. They perhaps judged it expedient to leave such inquiries to the parliament of England, which had lately undertaken them, and which afterwards resumed them. The business proceeded with little opposition, and some acts were passed which deserve notice.

The additional excise-duty which had been imposed in the year 1692 was continued, and to it was added a poll act to complete the supplies. Another act declared the parliament held by the late King illegal, and all its statutes void. It is conceived almost in the words of the English act passed in the year 1689 for the same purpose; and, what is remarkable, after reciting the enacting clause of the latter statute, it returns the "most hearty and unfeigned thanks of the Lords spiritual and temporal and commons, to their most sacred Majesties, for their pious and princely care" in procuring from their parliament of England such an act and declaration †. The remaining acts were calculated to restrain the influence of papists, and obstruct the growth of popery. One punished with forfeiture of goods and lands for

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* Journal of Commons, 10th March 1693.

† Irish statutes, 1695.

life, all parents who sent their children to be educated in any popish seminary on the Continent, or who transmitted money for the education of such children. It prohibited all popish teachers to open schools, or to instruct more children in one house than those of one family, on pain of incurring a fine of twenty pound, and imprisonment for three months. Another, entitled, for "the security of government," disarmed papists, under severe penalties, and forbid "makers of arms to accept apprentices educated in the popish religion." The session was closed with unanimity and temper, the Deputy was recommended to the King in a special address as an excellent governour.

The parliament of England seem not to have been insensible of the complaisance shown them by that of Ireland. In the two subsequent years they passed several acts calculated to promote the trade of the latter kingdom; but it may perhaps be maintained, that these acts originated from an interested, rather than a generous policy, because they were beneficial to England. The first related to the importation of wool, an article to which, and to the manufactures composed of it, the English legislature have always been exceedingly attentive. They have, at the same time, discovered a jealousy of rivalry with regard to it, which their situation gave them no reason to apprehend. By an act passed in the year 1662, the exportation of wool from England or Ireland to Scotland, or any foreign country, incurred the penalties of treason; but the severity of the punishment prevented informations, so that the abuse could not be restrained. Other penalties are therefore substituted by an act made in the year 1696, and by the same act Irish wool is permitted to be imported into
England,

England, provided it be landed at the ports of Whitehaven, Liverpool, Chester, Bristol, Bridgewater, Menehead, Barneftaple, or Biddeford. The commissioners or farmers of the revenue of Ireland are farther enjoined to "transmit, or cause to be transmitted, once every six months, to the commissioners of his Majesty's customs in England, a true account of all wool exported from the above ports." In 1698 the Irish parliament* considered the exportation of wool, and passed a temporary act, which loaded it with an impost of four shillings in the pound on all broad cloths, and two shillings on all draperies composed of a mixture of wool, which was to be additional to the subsidy on the same articles granted by the act 1692. The act soon expired, and was not revived.

The English act of the year 1696, relative to the free exportation of Irish woollen manufactures was to continue only for three years. In 1699, the parliament resumed the consideration of the subject. They prohibited the exportation of English wool to any foreign kingdom, and the exportation of Irish wool and woollen manufactures to any kingdom except England, under the penalties of the forfeiture of the goods and vessel, added to a fine of L. 500 pound for every transgression. It was suspected, it would seem, that attempts might be made in Ireland to evade the penalties of this statute by collusive prosecutions; it was therefore enacted, "that no acquittal or suit in that kingdom, unless the offender were convicted, should be pleaded in bar or delay of any prosecution within the kingdom of England." The

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* Irish statutes.

Irish judges were impowered and required to take account in their circuits of the due execution of the act, and to acquaint the Lord Deputy and council of any breach of it, or of the negligence of the officers to whom the execution of it had been committed. The ports of Ireland, from which the wool and woollen manufactures of that country are permitted to be exported, are, Dublin, Waterford, Youghall, Kinsale, Corke, and Drogheda. The places of importation are the same with those mentioned in the English act 1696, except that Milford-haven is substituted in the room of Whitehaven and Chester. By an act in the year 1718, the penalties are extended to all persons who shall convey to the shore or to the banks of any navigable river, Irish wool, or woollen manufactures, in order to facilitate their exportation.

All these precautions were insufficient to prevent the exportation of the wool and woollen manufactures of Ireland; it was therefore ordained by a statute 1699, that four small ships of war, and eight armed sloops, should be stationed on the coast of that kingdom, to seize all vessels containing the prohibited commodities. By another statute of the year 1732, three ships of the sixth rate, and as many armed sloops as the Lords of the admiralty should judge necessary, are appointed to the same service. With the progress of time, it is pleasant to observe, that the policy of England becomes more liberal with regard to her capital manufacture. In the year 1739, the duties on woollen or bay yarn, first imposed by an act of the twelfth of Charles II. and augmented by several subsequent acts, were taken off. New Ross, Newry, Wexford, Sligo, Wicklow, Limerick, Galway, and Dundalk, were added to the ports from which Irish wool and manufactures

factures might be exported to England. In 1753, the parliament permitted the free exportation of Irish wool and bay yarn from any port in Ireland to any port in Great Britain *.

The linen manufacture of Ireland had also the good fortune to attract the attention of the parliament of England; and the encouragement bestowed on it was gradually extended by a series of subsequent acts. A statute of this year permits to be imported directly from Ireland, into England, all sorts of hemp and flax, and the productions of them, free of all duty, provided only that evidence be given they are of the growth and manufacture of Ireland. An act passed in 1704 made it lawful to export, directly from Ireland, to her Majesty's plantations, free of duty, "any white or brown linen-cloth, which should be of the manufacture of Ireland," and prohibited the importation of Scots linen into that kingdom. An act in 1742 allowed a bounty on the exportation of coarse British or Irish linens to any port in Africa, America, Portugal, or Spain. The year following, the parliament allowed the importation of manufactures consisting of hemp and flax, though the raw materials should not be the growth of Ireland. In 1745 was offered an additional bounty on the exportation of British and Irish linens. In 1756 these bounties were continued for fifteen years, and the duties on the importation of foreign raw linen-yarn, made of flax, were taken off.

Since the termination of the rebellion in Ireland, the English House of Commons, suspicious, perhaps, of abuses committed in

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* English Statutes.

the management of the Irish forfeited estates, and anxious, to procure some indemnification to England for the large sums of money spent in the prosecution of the war, had introduced bills almost every session of parliament, to apply these estates to the use of the public, which bill, by the influence of the friends of the court, had uniformly been lost in the House of Lords. The Commons, however, resolved to succeed; and, accordingly, in the year 1699, added the bill for the sale of Irish forfeitures to that of the land tax. The act for the sale of Irish forfeitures, with the subsequent explanatory acts relative to the same subject, passed in the reign of Queen Anne, exhibit some remarkable examples of the jurisdiction which the English parliament, in this pure period of liberty, assumed over the property and legislative authority of Ireland.

The first of these acts begins with asserting the reasonableness of applying Irish forfeitures "to the ease of the people of England, by whose assistance and expence the rebels had been reduced." It appropriates to the use of the public, all lands and estates of which the proprietors had been attainted since the thirteenth of February in the year 1688. It vacates all alienations of the said estates, though founded on grants under the great seals of England and Ireland, or seal of the Irish exchequer, or "any act or acts of parliament in Ireland." It orders the trustees to repair to such places in Ireland as they shall judge most convenient, and there to send for persons and writings, to administer oaths, and commit to prison persons refusing to appear before them. All sheriffs and bailiffs are commanded to obey their orders; their court is appointed to be a court of record; and their

their judgments are declared to be final. The purchasers are ordained to hold their lands of the King in foccage, and to pay quit-rents, after the rate to which these were subjected previous to the rebellion. The rents are applied to the support and maintenance of the government of Ireland, and are declared unalienable. Provision is lastly made for several of the relations of the attainted proprietors; and persons whose services entitled them to rewards, are ordered to be gratified.

By an act 1701, the trustees are directed how to proceed in applying tythes, rectories impropriate and advowsons, which made part of the forfeitures, toward building churches and augmenting small vicarages. By another act of the same year, Protestants only are permitted to become purchasers, or to hold leases of the forfeited lands. Papists are prohibited either to purchase in person, or to avail themselves of any purchase or lease by assignment. A statute, 1705, restores to the Archbishop of Dublin, an estate which had been taken from him by a judgment of an Irish court of law, on pretence that it belonged to a Catholic proprietor, who had been unjustly divested of it by the act of settlement. The statute recites, that this judgment had passed during the lieutenancy of the Popish Lord Tyrconnel; and insinuates, that the judges, being Catholics, had been swayed by their religion.

The statutes already quoted are, perhaps, sufficient to ascertain the nature of the supremacy which has been exercised by the parliament of England over Ireland, since the revolution, that happy interval of the most perfect political liberty the world ever saw realized, and of the purity of which even Englishmen so
justly

justly boast. I should, therefore, conclude this history, did not the English act 1719, asserting the dependency of Ireland on England, demand a little attention. It originated from a collision of jurisdiction between the English and the Irish Houses of Peers, in reviewing the judgments of the courts of law in Ireland. The barons of the Irish exchequer, in a suit for an estate, had pronounced a judgment in favour of a claimant of the name of Annesly. The other party brought the suit by appeal into the Irish House of Peers, where the judgment was reversed. Annesly obtained a writ of appeal against this decree to the English House of Peers; but, in the interval, the decree of the Irish Peers was considered as final, and Annesly was compelled to resign his estate. The English Peers denied the competency of the Irish Lords to review the judgment, and ordered the judges of the Irish exchequer to reinstate the plaintiff. The judges gave immediate obedience to the order; but they incurred the resentment of the Irish Lords, who voted that they had "acted in derogation to the King's prerogative, to the rights and privileges of his high court of parliament, and of the kingdom;" and for these misdemeanours, they were ordered to be taken into the custody of the usher of the black rod. The Irish Peers, besides, transmitted a representation to the King, vindicating their claim to the rights of a supreme court of review.

The English Peers were filled with indignation against a conduct which they judged an insult to their authority. They supplicated his Majesty, that an extract of the proceedings of the Irish Lords, and their representation to the King, should be laid before

before them *. They resolved that the Irish judges had "acted with courage according to law, in support of his Majesty's prerogative, and with fidelity to the crown of Great Britain." They voted an address to present this resolution, and "humbly to desire that his Majesty would be pleased to confer upon the said barons some such mark of his royal favour as might be a recompense for the ill usage they had received, by being unjustly censured and illegally imprisoned for doing their duty." They were not yet satisfied. They considered the late proceedings of the Irish Lords, in assuming a power to examine and amend the decrees of the courts of justice, as a dangerous innovation, which tended to establish the independence of that kingdom. They therefore introduced a bill "for the better securing the dependency of the kingdom of Ireland on the crown of great Britain," which, though it did not make its way in either house without opposition, yet was quickly passed, and received the royal assent. The act declares, that "the kingdom of Ireland hath been, is, and of right ought to be subordinate unto, and dependent upon the imperial crown of Great Britain; and that the King's Majesty, by and with the consent of the Lords spiritual and temporal, and commons of Great Britain, in parliament assembled, had, have, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the kingdom and people of Ireland." It declares farther, "that all proceedings before the Irish House of Lords, upon any judgment given in a court of law, are utterly null and void †."

The course of six hundred years, through which it has been attempted to delineate the political connection between England

D d d

and

* Journals, 18th Dec. 1719. 1b. 28th Jan.

† Statutes 1719, cap. 5.

and Ireland, may be divided into three periods ; the first, containing 200 years, extends from the conquest to Richard II. ; the second, 240 years, from Richard II. to James I. ; and the third, 160, from James I. to the present times. During the first period, ideas of legal government were extremely indistinct, even among the English ; and, among the Irish, they seem not to have existed. What would now be called a regular parliament, had not long appeared in the former kingdom ; in the latter, it had scarcely made any appearance. The same common law subsisted in both kingdoms ; and when any English statute was judged useful for Ireland, it was transmitted under the great seal of England, and was entitled to every mark of respect and obedience. But the chief statute-law of Ireland, in this period, was the ordinations occasionally composed by the King and his English council.

During the second period, few instances occur of the interposition of the parliament of England in the government of Ireland, unless in furnishing small supplies of men and money for its support. If the act relative to the estates of absentees, and a few acts relative to trade and the reformation of religion, are excepted, the English statute-book contains no laws which have that kingdom for their object. The English parliament seem to have been disposed to leave the government of Ireland to the King and its own parliament, with a view to induce them to furnish money sufficient for its support. The former, at least, complained of the trouble and expence to which they were subjected by maintaining the civil constitution of a country from which they derived no advantage. Toward the end of this period, the English parliament found it requisite to change their system of indifference, because

because they perceived, that, unless the dependence of Ireland were maintained, that country might be employed by their enemies to interrupt the peace, and, perhaps, to destroy the liberties of England. Queen Elizabeth, accordingly, first made effectual provision for the total subjugation of it, and may, with much more justice, be entitled its conqueror than Henry II. The civil arrangements of James I. were well calculated to secure its obedience.

From the time of James I. no doubt seems to have been entertained in England concerning the supreme jurisdiction of the English parliament, and the validity of its acts to bind Ireland. The act of adventurers made in the year 1642, and the general act of indemnity passed at the restoration, both which disposed of great part of the property of Ireland; the act 1689, which abrogated the proceedings of the parliament held in Ireland by King James; the act of the same year, which superseded the Irish act of supremacy, made in the reign of Elizabeth, and appointed new oaths to be taken by the people, but particularly by the members of the parliament of Ireland; the act 1699, which authorized the sale of forfeited lands in Ireland, and applied the price to the use of the public, which authorized the mode of conducting the sales, and vacated all grants of land, founded on acts of the Irish parliament; the acts regulating the trade of Ireland, particularly that of linen; and, lastly, the declaratory act of the year 1719, leave no room to doubt concerning the sentiments of the legislature of England.

The Irish, in general, appear to have held similar opinions of the supremacy of the English parliament. The frequent and earnest petitions for redress of grievances presented to the English House of Commons before the commencement of the civil wars;

wars ; the anxious solicitations presented by the different parties in Ireland, to both Houses, concerning the act of indemnity, passed after the restoration ; the thanks of the Irish parliament signified to King William, for the act of the English parliament, which abrogated the statutes of the Irish parliament of James II. concur to prove, either that the Irish acknowledged the jurisdiction of the English parliament, or that they thought it vain to oppose it. Even the declaration of the Irish House of Commons, in the year 1641, relative to the queries which maintained the independence of Ireland, is scarcely an objection ; because it was made in imitation of the encroachments of the English House of Commons. It was suggested by the embarrassment of affairs in England, and was aimed against the authority of the King, rather than that of parliament. The same legislators, who, wished to be held the assertors of the liberties of their country, hesitated not to acknowledge virtually the supremacy of the Commons of England, by supplicating from that body a redress of their grievances.

What reflections the preceding narrative will suggest to persons of different characters, and in different interests, I presume not to conjecture. One remark, however, will occur to every reader, that the policy of England, with regard to Ireland, for the last hundred years, has gradually become more liberal, as commercial and political knowledge have been advanced and extended ; but that all the examples of national generosity, which this period can exhibit, disappear, when compared with the magnitude of late acts and resolutions, which are to extend to Ireland the advantages of a free trade. One step only remains, perhaps, to secure the future prosperity and happiness of the two kingdoms, to extend the benefits of the British constitution over the British Isles.

A P P E N D I X.

No. I.

Letter of King Henry III. sent to Ireland with the Irish Magna Charta.

REX Archiepiscopis, Episcopis, Abbatibus, Comitibus, Baronibus, Militibus, et Libere Tenentibus, et omnibus fidelibus suis per Hibern. constitutis, salutem. Fidelitatem vestram in Domino commendantes quam Domino patri nostro semper exhibuistis, et nobis estis diebus nostris exhibituri. Volumus, quod in signum fidelitatis vestrae tam praeclare, tam insignis, libertatibus regno nostro Angl. a patre nostro et nobis concessis, de gratia nostra et dono in regno nostro Hibern. gaudeatis vos et vestri haeredes imperpetuum. Quas distincte in scriptum redactas de communi consilio omnium fidelium nostrorum vobis mittimus, signatas sigillis Domini nostri G. Apostolicae sedis legati, et fidelis nostri Com. W. Maresc. Rectoris nostri et Regni nostri, quia sigillum nondum habuimus, easdem processu temporis de majori consilio proprio sigillo signaturi. Teste apud Glouc. 6 die Februar. *Prynne's Animadversions, p. 252.*

No. II.

Constitutiones factae apud Merton. superius inrotulatae, scilicet 8. die Febr. sigillatae fuerunt sigillo Domini Regis, transmissae sunt in Hyberniam, ut currant in partibus illis et teneantur sicut in Anglia, et de hoc fit mencio in brevi directo Justiciar. Hybern. inferioris inrotulato.

H. Dei gratia Rex Angl. &c. Venerabili patri L. eadem gratia Archiepiscopo Dublin. et dilecto et fideli suo M. fil. Geroldi Justic. suo Hiberniae, salutem. Accedens nuper ad curiam nostram Georgius de Laffidell nobis ex parte vestra supplicavit, ut vobis scire faceremus quid juris sit secundum consuetudinem Angl. in casibus subscriptis, videlicet, Cum contingat filium alicujus nobilis natum ex matrimonio, movere quaestionem fratri suo in fornicacione ante matrimonium de eadem matre progenito super paterna haereditate? Item, si contingat quod frater natus ante matrimonium defendendo, dicat se esse legitimum, utrum in tali casu mittendus sit ad forum ecclesiasticum? Item, si mittendus sit, in qua forma, &c. Item, si contingat quod natus ante matrimonium fecerit homagium suum de terris suis post decessum patris sui, et ratione homagii sic facti vocaverit Dominum suum ad warrantum, quid juris sit de illa vocatione? Et si warrantizare debeat aut velit, sponte, utrum duellum possit esse de jure inter natum ex matrimonio et Dominum warrantizantem, cum inter ipsos fratres esse non possit? Ad haec etiam vobis significamus de primo capitulo,

tulo, Quod si natus ante matrimonium cui movetur quaestio cognoscat se natum esse ante matrimonium, nec petere potest haereditatem, nec petitam retinere secundum Angliae consuetudinem, nec talis si dicat se natum esse post, non est mittendus ad Curiam Christianitatis, eo quod clerus talem habet pro legitimo. Cum autem de casu illo anno praeterito tractatum esset coram venerabili patre Archiepiscopo Cantuariensi et Coepiscopis suis, et Magnatibus nostris Angl. scilicet, Utrum inquisitio de tali nato deberet fieri in curia nostra, vel in curia Christianitatis? tandem praedictus Archiepiscopus et Episcopi petierunt, sibi dari potestatem inquirendi: Postea vero, processu temporis, quia in forma brevis nostri eis super hoc transmissi contentum fuit, quod respondere deberent, Utrum talis natus esset ante matrimonium vel post? videntes hoc esse contrarium legibus suis, noluerunt ad hoc respondere, set reliquerunt nobis et curiae nostrae hoc inquirendum et terminandum, et nondum provisum est in curia nostra sub qua forma hoc debeat inquiri, vel per sacramentum 12 juratorum, vel per probationem a partibus producendam. Item, de Domino si debeat warrantizare tenenti contra fratrem suum? vobis respondemus, *Quod non*; eo quod tam natus post matrimonium quam ante, uno et eodem jure utuntur, et Dominus in captione homagii potius circumventus fuit quam ratione astrictus. Nec esse poterit duellum inter eos praedicta ratione: Et praeterea, quia Dominus tenetur plus warrantizare petenti nato post matrimonium, quam tenenti nato ante matrimonium. Hiis igitur intellectis secundum quod praedictum est in partibus vestris faciatis. T. R. apud Mortelac. 9 die Maii. *Prynne's Animadversions, p. 253.*

No. III.

THE Lord Lionel was generall, and vnder him Raulf Earle of Stafford, Iames Earle of Ormond, Sir Iohn Carew Banneret, Sir William Winfor, and other knights, were commanders.

The entertainment of the Generall vpon his first arriual, was but fix shillings eight pence, *per diem*, for himselfe; for fiue knights, two shillings a peece, *per diem*; for 64 Esquires, xij. d. a peece, *per diem*; for 70 Archers, vj. d. a peece, *per diem*. But being shortly after created Duke of Clarence (which honor was conferred vpon him beeing heere in Ireland) his entertainment was raised to xij. s. iiij. d. *per diem*, for himselfe, & for 8 Knights, ij. s. a peece *per diem*, with an encrease of the number of his Archers, viz. 360 archers on horsebacke, out of Lancashire, at vj. d. a peece *per diem*, and 23. archers out of Wales, at ij. d. a peece *per diem*.

The Earle of Staffords entertainment, was for himself vi. s. viij. d. *per diem*, for a Banneret, iiij. s. *per diem*, for xvij. Knights, ij. s. a peece *per diem*, for 78. Esquires, xij. d. a peece *per diem*, for 100 archers on horsebacke, vj. d. a peece *per diem*. Besides, he had the command of 24. archers out of Staffordshire, 40. archers out of Worcestershire, and six archers out of Shropshire, at iiij. d. a peece *per diem*.

The entertainment of Iames Earle of Ormond, was for himselfe iiij. s. *per diem*, for two knights, ij. s. a peece *per diem*, for 27 esquires xij. d. a peece *per diem*, for 20 hoblers armed, (the Irish horsemen were so called, because they serued on Hobbies) vj. d. a peece *per diem*, and for 20 hoblers not armed, iiij. d. a peece *per diem*.

The

The entertainment of Sir Iohn Carew Banneret, was for himselfe iiij. s. *per diem*, for one knight, ij. s. *per diem*, for eight esquires, xij. d. a peece, *per diem*, for ten archers on horsebacke, vj. d. a peece *per diem*.

The entertainment of Sir William Winfore, was for himselfe ij. s. *per diem*, for two knights ij. s. a peece *per diem*, for 49 squiers xij. d. a peece *per diem*, for six archers on horseback, vj. d. a peece *per diem*.

The like entertainment rateably, were allowed to diuers knightes and gentlemen vpon that list, for themselues and their feuerall retinewes, whereof some were greater, and some lesse, as they themselues could raise them among their tenants and followers; *Sir John Davies's Discoverie of the state of Ireland, p. 31.*

No. IV.

Sir Francis Walsingham to Sir Henry Sidney.

My very good Lord,

HER Majesty's pleasure is, that I shoold sende unto you the inclosed note, conteyning certeyn pryncypall poyntes of your instructyons, to the ende you may render an accompt what hathe ben don in the same: Unto some of the seyde poyntes, I knowe ther can be gyven no pressent awntswer, for that your Lordship hathe had neythor tyme nor leysure to consyder in sooche sorte of them, as that you can give any full awntswer therunto.

I am sure yt hathe ben bruted in Irelande, that her Majestye meaneth not to contynewe her allowaunce of the xx thousande pownde agreed on; as also, that she dooth not lyke of the erectyng of presydents: Which brute may greatly hynder her Majesty's servyce, and can not but greatly discorage your Lordship to see us waver; and to dowbt of the successe of your proceedyngs before any tryall made of the same.

But this is no newe fault, thowghe yt be a most dangerowse fawlte. Trewe yt is, as yt is bruted abroad, that her Majesty hathe no affectyon to contynewe the charges agreed on; and yet for that my Lords are of opynion, that her Majesty upon a soddeyne, withowt any tryall made, shoold not breake of the matter: She seamethe to yelde to a yeares tryall: And yet dothe she lycke, that Sir Wylliam Drurye shoold have his alloweaunce,
from

from the tyme he hathe ben in a readynes to come over ; having been furcharged withe bothe horse and men provyded for this servyce : Wheruppon I feare he wyll refuse to goe ; espetyally, seing no more assured determynatyon of his imployment ther, with that contynewaunce, that might be for the advauncement of her servyce, and his owne credyt. Besydes, he consyderethe howe chargeable yt woulde be for him to goe thither, and then, within a fewe monethes after, to be revoked ; so that I cannot assure you of his determynatyon herein. Neyther can your Lordship yelde any effectuall tryall of your determynatyon for the redresse of that contrye ; where as you shall lacke fyt men to execute that which by you ys set downe.

I knowe not whether I may ascrybe these impedyments unto the irresolutyon of this tyme, or to the cursed destenye of that contrye ; being not ordeyned to receyve any good of any determynatyon agreed on for the reformatyon therof.

I had almost forgotten to tell your Lordship, Mr Agar and I were forced (uppon the caulying in questyon, whether the charges agreed on weare to be contynewed) to sett downe the inclosed plott I sende you ; whereby yt myght appeare unto her Majesty, how profytably her treasure shoold be imployed, which, by my Lords [of the councell] wear verry well allowed of ; and not otherwise myslyked by her Majesty, but in respect of the charges.

Towching Mr Agars commying over, whos Assystaunce you seme greatlye to desyre, I refer the declaratyon of his staye to his owne letter.

I have dealt with her Majesty, to have had Mr Gerrard sent over as chancelor in that realme ; but I fynde her not dysposed thereunto : For that she thinkethe he may not be well spared, in the place where he nowe serveth. And so having scrybled unto you,
that

that which I thinke fyt to be imparted unto your Lordship, I com-
myt you to Gods good keeping. At *Hampton Coorte*, the xxviiiith
of *Januarye*, 1575.

Your Lordships assured Friend,

Fra. Walsyngham.

Propositions for the Chardges of Irland.

The charges of Ir- land <i>per ann.</i> viz.	To be received out of England	l. 20000 Sterl.	l. 26000 Sterl. whereof
	The revenue of Ir- land	l. 6000 Ster.	
For ordinarie chard- ges, <i>per annum</i> , viz.	To the Lord Depu- tie and other prin- cipall officers	l. 3666 Sterl.	l. s. d. 8029 17 4 Sterl.
	To the Lord Chaun- cellor and other inferior officers	l. 1000 Sterl.	
	To the Kerne with their Generall by patent	l. 1110 Sterl.	
	To the ministers of the ordinance and warders in the Castle of Dublin, whereof the most by lettres patents	l. s. 291 4 Sterl.	
	To the warders and castells	l. s. d. 1962 13 4 Sterl.	
The garison to aun- fwear all services, viz.	First horsemen 800, with their cap- taines, petie cap- taines, and other officers, <i>per ann.</i>	l. s. 6022 10 Sterl.	l. s. d. 13368 2 6 Sterl.
	Footmen 700, with their Captaines and petie Cap- taines and offi- cers, <i>per annum</i>	l. s. d. 7345 12 6 Sterl.	
Totalis			l. s. d. 21397 19 10 Sterl.

Other ordinarie and
extraordinarie char-
ges to be borne of
the some aforesaid,
viz.

The towne of Knockfergus to be walled, and the peeres
buylded.

The decaied bridge of Dundalke to be newe made.

Roscomon to be reedified.

A house to be builded in Athenrie for the president of Con-
naughe.

A bridge of stone at Lurtmiche to be made.

A bridge beside to be built.

The fort in the Queenes Countie to be repaired and made fit
for the Lord Deputie to lie at.

The bridge of Langhlin to be repaired.

All the Queenes Majesties houses to be maintayned and re-
paired.

The allowance and fees of the presidents and their associats
in Munster and Connaghe to be borne; the victellers wages
and losses of victells rered, with all other kinde of extraordi-
narie charges; his attendant of the counsell traveling with
the Lord Deputie in iorneis, and divers other like.

How the forces and
garifons of 1260 is
to be imploied, viz.

In the northe and
at the Ferney un-
der the conduct
of the Earle of
Essex, horsmen } 100

Footmen ther } 250

In Monster horsmen } 100

Footmen ther } 200

In Connaghe horf-
men } 100

Footmen ther } 200

For the garde of the
English Pale, the
reforming of Est
Linster, and the
expulging of the
disordered O-
moores and Oto-
mores, and to
attond everie sud-
daine } 250

*The Commoditie liklie to insue by the Planting of Presidents in
Mounster and Connaghe, &c.*

Imprimis, The townes dutifullie affected to her Majestie shall be preserved from the oppressing of their cruell neighbours.

The well disposed in the province, whom her Majestie in honor is bound to defend agenst the tirannie of their oppressors, shall be protected.

The evil disposed in the English Pale, as Omoores, Ochomores, Cavenaghes, and such like, having refuge to the said province, shall be brideled.

Her Majesties write shall have currencie within the said province, and she acknowledged onlie souveraigne; and suche reduced to yelde due obedience, that partlie stande in vndutifull termes with her Majestie, to her great dishonor.

Her Majesties revenus, now possessed by vsurpers or concealers, shall be recovered and aunswered.

The said realme, by planting this civil kinde of gouvernement, will be within fewe yeres so peopled, as they shall be hable to make heade agenst suche forraine Princes as have anie intelligences within that realme.

And, if annie shall oppose him self agenst the placing of the said presidents, they shall be suppressed, without annie supplie to be had out of this realme, either of men or monie.

The townes by this couerse being defended from their oppressors, the well disposed subiects protected, her Majesties revenues
in

in thes provinces ainsweared, the evill disposed in the English Pale
brideled, and her writt having currencie, her Majestie, within the
space of twoe or three yeres, shall not be yearlie charged with
above 20000 *l.* for Irland, vnless it be to withstand forrain in-
vasions; *Sir Henry Sidney's Letters, Part II. p. 85.*

No. V.

No. V.

*Queen Elizabeth's Letter to the Earl of Essex on the Conduct of the
Irish War.*

*Elizabeth Regina.**By the Queene.*

RIGHT trusty and right well beloued cosen and counsellor,
and trusty and welbeloued, We greet you well. Hauing
sufficiently declared vnto you before this time, how little the man-
ner of your proceedings hath answered, either our direction, or
the worlds expectation: And finding now by your letters by
Cusse, a course more strange, if stranger may be, we are doubt-
ful what to prescribe you at any time, or what to build vpon by
your owne writings to vs in any thing. For we haue clearly
discerned of late, that you haue euer to this hower possessed vs
with expectations, that you would proceede as we directed you.
But your actions shew alwaies the contrary, though carried in such
sort, as you were sure we had no time to countermaund them.

Before your departure, no mans counsell was held sound,
which perswaded not presently the maine prosecution in Vlster,
all was nothing without that, and nothing was too much for that.
This drew on the sudden transportation, of so many thousands to
be carried ouer with you, as when you arriued we were charged
with more then the liste, or which wee resolved, to the number
of three hundred horse; also the thousand which were onely to
be in pay during the seruice in Vlster, haue been put in charge
euer since the first iourney. The pretence of which voyage, as
appeareth

appeareth by your letters, was to doe some present seruice, in the interim, whilest the season grew more commodious for the maine prosecution; for the which purpose, you did importune with great earnestnesse, that all manner of prouisions might be hastned to Dublin against your returne.

Of this resolution to deferre your going into Vlster, you may well thinke that wee would haue made stay, if you had giuen us more time, or if we could haue imagined by the contents of your owne writings, that you would haue spent nine weekes abroad. At your returne, when a third part of Iuly was past, and that you had vnderstood our mislike of your former course, and making your excuse of vndertaking it onely in respect of your conformitie to the counsels opinions, with great protestations of haste into the north, we receiued another letter, of new reasons to suspend that iourney yet a while, and to draw the army into Ophalia. The fruit whereof was no other at your comming home, but more relations of further miseries of your army, and greater difficulties to performe the Vlster warre. Then followed from you and the councell a new demaund of two thousand men, to which if we would assent, you would speedily vndertake what wee had so often commanded. When that was granted, and your going onward promised by diuers letters, wee receiued by this bearer now fresh aduertisement, that all you can doe, is to goe to the frontier, and that you haue prouided only for twenty daies victuals. In which kinde of proceeding, wee must deale plainely with you and that councell, that it were more proper for them, to leaue troubling themselves with instructing vs, by what rules our power and their obedience are limited, and to bethink them, if the courses haue bin only deriued from their counsells, how to answer this part of
d theirs,

theirs, to traine vs into a new expence for one end, and imploy it vpon another ; to which we could neuer haue assented, if we could haue suspected it should haue beene vndertaken, before we heard it was in action. And therefore we doe wonder how it can be answered, seeing your attempt is not in the capitall traytors countrey, that you haue increased our list ; but it is true, as we haue often saied, that we are drawne on to expence, by little and little, and by protestations of great resolutions in generalities, till they come to particular execution. Of all which courses, whosoever shall examine any of the arguments vsed for excuse, shall find, that your owne proceedings beget the difficulties, and that no iust causes doe breed the alteration. If lacke of numbers, if sicknesse of the army be the cause, why was not the action vndertaken, when the army was in better state, if winters approch, Why were the summer moneths of Iuly and August lost ? If the spring was too soone, and the summer that followed otherwise spent, if the haruest that succeeded was so neglected, as nothing hath beene done, then surely must we conclude, that none of the foure quarters of the yeere will be in season for you and that counsell, to agree of Tyrones prosecution, for which all our charge was intended. Further we require you to consider, whether we haue no great cause to thinke, that the purpose is not to end the warre, when your selfe haue so often told vs, that all the petty undertakings in Lemster, Mounster, and Connaght, are but losse of time, consumption of treasure, and waste of our people, vntill Tyrone himselfe be first beaten, on whom the rest depend. Doe you not see, that he maketh the warre with vs in all parts by his ministers, seconding all places where any attempts be offered : Who doth not see, that if this course be continued, the warres are
like

like to spend vs and our kingdome beyond all moderation, as well as the report of the successe in all parts hath blemished our honour, and encouraged others to no smal proportion. We know you cannot so much fayle in iudgement, as not to vnderstand, that all the world seeth, how time is dallied, though you thinke the allowance of that counsell, whose subscriptions are your ecchoes, should serue and satisfie vs. How would you haue derided any man else, that should haue followed your steps? How often haue you told vs, that others which preceded you, had no intent to end the warre? How often haue you resolued vs, that vntill Loughfoyle and Ballishannon were planted, there could be no hope of doing seruice vpon the capitall rebels? We must therefore let you know, that as it cannot be ignorance, so it cannot be want of meanes, for you had your asking, you had choice of times, you had power and authority more ample than euer any had, or euer shall haue. It may well be iudged, with how little contentment, wee search out this and other errours; for who doth willingly seeke for that, which they are so loth to find, but how should that be hidden which is so palpable? And therefore to leaue that which is past, and that you may prepare to remedy matters of weight hereafter, rather then to fill your papers with many impertinent arguments, being in your generall letters, fauouring still in many points of humours, that concerne the priuate of you our Lord Liefetenant; we do tell you plainely that are of that councell, that we wonder at your indiscretion, to subscribe to letters which concerne our publike seruice, when they are mixed with any mans priuate, and directed to our counsell table, which is not to handle things of small importance.

To

To conclude, if you will say, though the army be in list twenty thousand, that you haue them not, we answere then to our treasurer, that we are ill serued ; and that there need not so frequent demands of full pay : If you will say the muster-master is to blame, we much muse then why he is not punished, though say we might to you our generall, if we would *Ex iure proprio iudicare*, that all defects by ministers, yea though in neuer so remote garrisons, haue beene affirmed to vs, to deserue to be imputed to the want of care of the generall. For the small proportion you say you carry with you of three thousand five hundred foot, when lately we augmented you two thousand more. It is to vs past comprehension, except it be that you haue left still too great numbers in vnnecessarie garrisons, which doe increase our charge, and diminish your army, which we command you to reforme, especially since you, by your continuall reports of the state of euery prouince, describe them all to be in worse condition then euer they were before you set foote in that kingdome. So that whosoever shal write the story of this yeeres action, must say, that we were at great charges to hazard our kingdome, and you haue taken great paines to prepare for many purposes, which perish without vnderstanding. And therefore because we see now by your own words, that the hope is spent of this yeeres service upon Tyrone and O Donnel, we do command you and our counsell, to fall into present deliberation, and thereupon to send vs o-uer in writing, a true declaration of the state to which you haue brought our kingdome, and what be the effects which this iourney hath produced, and why these garrisons which you will plant farre within the land in Brenny and Monaghan, as others whereof we haue written, shall haue the same difficulties.

Secondly,

Secondly, we looke to heare from you and them iointly, how you thinke the remainder of this yeere shall be imployed, in what kind of warre, and where, and in what numbers, which being done and sent vs hither in writing with al expedition, you shal then vnderstand our pleasure in all things fit for our seruice, vntil which time, we command you to be very carefull to meete with all inconueniences, that may arise in that kingdome, where the ill affected will grow insolent vpon our ill successe, and the good subiects grow desperate, when they see the best of our preferring them.

We haue seene a writing in forme of a cartell, full of challenges that are impertinent, and of comparisons that are needelesse, such as hath not been before this time presented to a state, except it be done now with a hope to terrifie all men from censuring your proceedings. Had it not bin enough to haue sent us the testimony of the counsell, but that you must call so many of those, that are of slender experience, and none of our counsell, to such a forme of subscription. Surely howsoeuer you may haue warranted them, wee doubt not but to let them know, what belongs to vs, to you, and to themselues. And thus expecting your answer, we ende, at our Mannor of Nonfuch the fourtenth of September, in the one and fortieth yeere of our raigne, 1599; *Moryson's Itinerary, Part II. p. 39.*

No. VI.

Orders and Conditions to be observed by the Undertakers upon the Distribution and Plantation of the Escheated Lands in Ulster.

WHEREAS the greatest part of six counties in the province of Ulster within the realm of Ireland, namely, Ardmagh, Tyrone, Colrane, Donegall, Fermanagh, and Cavan, being escheated, and come to the crown, hath lately been survey-ed, and the survey thereof transmitted and presented to his Majesty: Upon view whereof, his Majesty, of his princely bounty, not respecting his own profit, but the public peace and welfare of that kingdom, by the civil plantation of those unreformed and waste countries, is graciously pleased to distribute the said lands to such of his subjects, as well of Great Britain as of Ireland, as being of merit and ability shall seek the same, with a mind not only to benefit themselves, but to do service to the crown and the commonwealth.

And forasmuch as many persons, being ignorant of the conditions whereupon his Majesty is pleased to grant the said lands, are importunate suitors for greater portions than they are able to plant, intending their private profit only, and not the advancement of the public service; it is thought convenient to declare and publish to all his Majesty's subjects the several quantities of the proportions which shall be distributed, the several sorts of undertakers, the manner of allotment, the estates, the rents, the tenures,

nures, with other articles to be observed, as well on his Majesty's behalf, as on the behalf of the undertakers, in manner and form following.

First, The proportions of land to be distributed to undertakers shall be of three different quantities, consisting of fundry parcels or precincts of land, called by certain Irish names used and known in the said several counties, viz. *Ballibetaghs*, *Quarters*, *Balliboes*, *Tathes*, and *Polls*; the first or least proportion to contain such or so many of the said parcels as shall make up a thousand English acres at the least; and the second or middle proportion to contain such or so many of the parcels as shall make up fifteen hundred English acres at least; and the last or greatest proportion to contain such or so many of the said parcels as shall make up two thousand English acres at the least; to every of which proportions shall be allowed such quantity of bog and wood as the country shall conveniently afford.

Secondly, The persons of the undertakers of the several proportions shall be of three sorts, viz.

1. *English or Scottish*, as well servitors as others, who are to plant their portions with English, or inland Scottish inhabitants.
2. Servitors in the kingdom of Ireland who may take meer Irish, English, or inland Scottish tenants at their choice.
3. Natives of Ireland who are to be made freeholders.

Thirdly, His Majesty will reserve unto himself the appointment in what county every undertaker shall have his portion. But, to avoid emulation and controversy which would arise among them, if every man should choose his place where he would be planted, his Majesty's pleasure is, that the scites or places of their portions in every county, shall be distributed by lot.

Lastly,

Lastly, The several articles ensuing are to be observed, as well in the behalf of his Majesty, as of the several undertakers respectively.

Articles concerning the English and Scottish undertakers who are to plant their portions with English and inland Scottish tenants.

1. His Majesty is pleased to grant estates in free-farm to them and their heirs.

2. They shall yearly yield unto his Majesty, for every proportion of a thousand acres, five pounds six shillings and eight-pence English, and so rateably for the greater proportions, which is after the rate of six shillings and eight-pence for every three score English acres. But none of the said undertakers shall pay any rent until the expiration of the first two years, except the natives of Ireland, who are not subject to the charge of transportation.

3. Every undertaker of so much land as shall amount to the greatest proportion of two thousand acres, or thereabouts, shall hold the same by knight's service *in capite*; and every undertaker of so much land as shall amount to the middle proportion of fifteen hundred acres, or thereabouts, shall hold the same by knight's service, as of the castle of Dublin. And every undertaker of so much land as shall amount to the least proportion of a thousand acres, or thereabouts, shall hold the same in common soccage; and there shall be no wardship upon the two first descents of that land.

4. Every undertaker of the greatest proportion of two thousand acres, shall, within two years after the date of his letters patents, build

build thereupon a castle, with a strong court or bawne about it. And every undertaker of the second or middle proportion of fifteen hundred acres, shall, within the same time, build a stone or brick house thereupon, with a strong court or bawne about it; and every undertaker of the least proportion of a thousand acres shall, within the same time, make thereupon a strong court or bawne at least; and all the said undertakers shall draw their tenants to build houses for themselves and their families, near the principal castle, house, or bawne, for their mutual defence or strength, and they shall have sufficient timber, by the assignation of such officers as the Lord Deputy and council of Ireland shall appoint, out of his Majesty's woods in that province, for the same buildings, without paying any thing for the same during the said two years: And to that end there shall be a present inhibition to restrain the falling or destruction of the said woods in the mean time for what cause soever.

5. The said undertakers, their heirs and assignees, shall have ready in their houses at all times, a convenient store of arms wherewith they may furnish a competent number of able men for their defence, which may be viewed and mustered every half year, according to the manner of England.

6. Every of the said undertakers, English or Scottish, before the enfealing of their letters patents, shall take the oath of supremacy, either in the chancery of England or Ireland, or before the commissioners to be appointed for establishing of the plantation, and shall also conform themselves in religion, according to his Majesty's laws.

7. The said undertakers, their heirs and assignees, shall not alien or demise their portions, or any part thereof, to the meer
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Irish, or to such persons as will not take the oath, which the said undertakers are bound to take by the former article; and to that end a proviso shall be inserted in their letters patent.

8. Every undertaker shall, within two years after the date of his letters patents, plant or place a competent number of English or inland Scottish tenants upon his portion, in such manner as by the commissioners to be appointed for the establishing of this plantation shall be prescribed.

9. Every of the said undertakers, for the space of five years next after the date of his letters patents, shall be resident in person himself upon his portion, or place some such other person thereupon, as shall be allowed by the state of England or Ireland, who shall be likewise resident there during the said five years, unless by reason of sickness or other important cause, he be licensed by the Lord Deputy and council of Ireland to absent himself for a time.

10. The said undertakers shall not alien their portions during five years next after the date of their letters patents, but in this manner, viz, one third part in fee-farm, another third part for forty years or under, reserving to themselves the other third part without alienation during the said five years. But after the said five years, they shall be at liberty to alien to all persons, except the meer Irish, and such persons as will not take the oath, which the said undertakers are to take as aforesaid.

11. The said undertakers shall have power to erect manors, to hold courts baron twice every year, to create tenures to hold of themselves upon alienation of any part of their said portions, so as the same do not exceed the moiety thereof.

12. The

12. The said undertakers shall not demise any part of their lands at will only, but shall make certain estates for years, for life, in taile, or in fee-simple.

13. No uncertain rent shall be reserved by the said undertakers, but the same shall be expressly set down without reference to the custom of the country; and a proviso shall be inserted in their letters patents against cuttings, cosheries, and other Irish exactions upon their tenants.

14. The said undertakers, their heirs and assigns, during the space of seven years next ensuing, shall have power to transport all commodities growing upon their own lands, which they shall hold by these letters patents, without paying any custom or imposition for the same.

15. It shall be lawful for the said undertakers for the space of five years next ensuing, to send for and bring into Ireland out of Great Britain, victuals and utensils for their households, materials and tools for building and husbandry, and cattle to stock and manure their lands aforesaid, without paying any custom for the same, which shall not extend to any commodities by way of merchandize.

Articles concerning such servitors in Ireland as shall be undertakers in this plantation, and shall have power to inhabit their portions with mere Irish tenants.

1. They shall have estates in fee-farm.

2. They shall yield a yearly rent to his Majesty of eight pounds English for every proportion of a thousand acres, and so rateably for

for the greater proportions, which is after the rate of ten shillings for sixty English acres or thereabouts, which they shall inhabit with meer Irish tenants; but they shall pay only five pounds six shillings and eight-pence for every proportion of a thousand acres, which they shall inhabit with English or Scottish tenants as afore-said, and so rateably for the other proportions. And they shall pay no rent for the first two years.

3. They shall hold their several portions by the same tenures as the former undertakers respectively.

4. They shall build their castles, houses, and bawnes, and inhabit their lands within two years, and have a competent store of arms in readines as the former undertakers.

5. They shall have power to create mannors and tenures as the former undertakers.

6. They shall make certain estates to their tenants, and reserve certain rents, and forbear Irish exactions as the former undertakers.

7. They shall be resident for five years, as the former undertakers, and be restrained from alienation within the same time as the former undertakers.

8. They shall take the oath of supremacy, and be conformable in religion as the former undertakers.

9. They shall not alien their portions, or any part thereof, to the meer Irish, or to any such person or persons as will not take the like oath as the said undertakers are to take as afore-said, and to that end a proviso shall be inserted in their letters patents.

10. They shall have power or liberty to transport or bring in commodities as the former undertakers.

Articles

Articles concerning the Irish natives who shall be admitted to be freeholders.

1. They shall have estates in fee-farm.
2. They shall pay the yearly rent of ten pounds thirteen shillings and fourpence for every portion of a thousand acres, and so rateably for the greater proportions, which is after the rate of thirteen shillings and fourpence for every sixty acres, or thereabouts; and they shall pay no rent for the first year.
3. For their tenures they shall hold as the other undertakers respectively, according to their portions, with a proviso of forfeiture of their estates, if they enter into actual rebellion.
4. They shall inhabit their lands, and build their castles, houses, and bawns, within two years, as the former undertakers.
5. They shall make certain estates for years or for lives, to their under tenants, and they shall take no Irish exactions.
6. They shall use tillage and husbandry after the manner of the English Pale.

Certain general propositions to be notified to the undertakers of all sorts.

1. That there shall be commissioners appointed for the setting forth of the several proportions, and for the ordering and settling of the plantation, according to such instructions as shall be given unto them by his Majesty in that behalf.

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2. That

2. That all the said undertakers shall, by themselves or by such as the states of England or Ireland shall allow of, attend the said commissioners in Ireland at or before Midsummer next, to receive such directions touching their plantations as shall be thought fit.

3. That every undertaker, before the enfealing of his letters patents, shall enter into bond, or recognizance, with good sureties to his Majesty's use, in the office of his Majesty's chief remembrancer in England or Ireland, or in his Majesty's exchequer or chancery in Scotland, or else before two of the commissioners to be appointed for the plantation, to perform the foresaid articles, according to their several distinctions of building, planting, residence, alienation within five years, and making of certain estates to their tenants, in this manner, viz. the undertaker of the greatest proportion to become bound in four hundred pounds, of the middle proportion in three hundred pounds, and of the least proportion in two hundred pounds.

4. That, in every of the said counties, there shall be a convenient number of market-towns and corporations erected for the habitation and settling of tradesmen and artificers; and that there shall be one free school at least appointed in every county, for the education of youth in learning and religion.

5. There shall be a convenient number of parishes and parish-churches, with sufficient incumbents, in every county; and that the parishioners shall pay all their tithes in kind to the incumbents of the said parish-churches. *Harris's Hibernia, p. 123.*

No. VII.

The Establishment signed by her Majestie, the first of February 1599.

THE Lord Deputies entertainment to be paid according to the list after following, which list was to be signed by the Lords. Officers of the army : Lieutenant of the army *per diem* three li. Serieant major *per diem* twenty s. Comptroler general of the victuals *per diem*, ten s. Foure commissaries of victuals, whereof three at six s. *per diem*, and the fourth at eight s. *per diem*. Twelue colonels, each at ten s. *per diem*. A prouost marshall for Loughfoyle, another for Ballishannon, each at foure shillings *per diem*.

Summa per annum, foure thousand foure hundred fiftie three pound.

The pay of three hundred horse, diuided into fixe bands, each band consisting of fiftie, viz. the Captaine foure shillings *per diem*; Lieutenant two shillings fixe pence *per diem*; Cornet two shillings *per diem*; and fiftie horsemen at eighteene pence *per diem* a piece. The pay of two hundred horse, diuided into foure bands, each band consisting of fiftie, viz. Captaine foure s. *per diem*; Lieutenant two s. six d. *per diem*. Cornet two s. *per diem*, and fiftie horsemen at fifteene d. a piece *per diem*. The pay of seuen hundred horse, divided into fourteene bands, each band consisting of fiftie, viz. Captaine, foure shillings *per diem*. Lieutenant, two shillings fixe pence *per diem*. Cornet two shillings *per diem*. Fiftie horsemen at twelue pence a peece *per diem*.

Summa

Summa per annum, twenty nine thousand two hundred threescore thirteene pound.

The pay of twelue thousand footmen, diuided into 120 bands, each band consisting of a hundred heads, viz. Captaine foure s. *per diem*. Lieutenant two shillings *per diem*. Ensigne eightene d. *per diem*. Two sericants, a drum, and a furgion, at twelue d. a peece *per diem*; and fourescore fourteene souldiers, and fixe dead payes, at eight d. a peece *per diem*.

Summa per annum, one hundred threescore eleuen thousand one hundred fourescore and fve pound.

Extraordinaries, viz. for sending of letters, hyring of barks, for passage of pacquets, for gifts and reward, for espyes from abroad or at home, carriage of treasure, victuall, or munition, and the like, &c. for a whole yeere, foure thousand pound.

Summa totale per annum, two hundred eight thousand nine hundred and eleuen pound. *Moryson's Itinerary, Part II. p. 52.*

No. VIII.

No. VIII.

Graces conferred by Charles I. on the People of Ireland.

THESE graces were calculated for the ease of the kingdom in general, and for the redress of grievances complained of by people of all denominations in it. Thus, provision was made against the laying of any burthen upon them for the payment of soldiers, except in cases of inevitable necessity; and against the granting of protections to persons, against whom judgment had been given in any of the courts of law. Several grants and patents for the selling of aquavita, wine, ale, and beer, for tanning of leather, and for linen yarn, were either resumed, or limited in their exercise. Regulations were made in the commissions for restraining the oppressions of soldiers, in the manner of collecting the King's rents, of laying assessments for robberies, of granting reprieves to malefactors, of summoning grand juries, and imposing fines upon the absent. The fees of officers of courts, sheriffs, and clerks of the market, were ordered to be moderated; the number of provosts marshal reduced to one in a province, and their power restrained, so as not to execute any persons that might be brought to a trial at law, unless in time of war and rebellion; witnesses in private causes were not to be bound over to the castle chamber, nor jurors to be bound over to any court, but on very apparent suspicion of corruption and partiality; custodians of lands granted upon outlawries were to be discharged immediately upon sight of certificates of the reversal thereof; the testimony of persons notoriously infamous and capitally convicted

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for the condemnation of any subject, was not to be admitted but under certain restrictions; speedy justice was to be done to the poor; the court of wards was also regulated, as well as other courts, in the method of proceeding upon contempts, and was particularly abridged in the exercise of its power; no grants of intrusions, or alienations, or leases of mens lands, were to be made out of that court before the party interested was personally summoned; no relief was to be paid for lands not exceeding L. 5 Sterling a year; no clerk or inferior officer in that court was to be made a commissioner for taking offices; some of the best quality in each county were to be joined with the foedary and escheator in taking inquisitions; the court was inhibited from making inquiries farther than to the last deceased ancestor, unless by special direction from the King; all compositions in it, alienations, intrusions, *premier seifins*, *oustre le mains*, and liveries, were limited to the eighth part of the real value of the lands; and the wardships and custodies of the estates of minors were to be moderately valued. The great officers of state were to be allowed their impost wines, and the nobility to be paid their creation money. For the more equal distribution and easier support of public burdens and charges in the country, the bishops and patentees of dissolved monasteries, (who pretended to certain privileges and exemptions), the new corporations, impropriations, and the temporal lands of ecclesiastics, were all made subject to them.

For the more constant celebration of divine service, and better discharge of the pastoral care, pluralities of benefices were not to be bestowed upon unqualified persons; the incumbents were to be compelled to preach and keep sufficient curates, and commif-
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fions to be issued for inquiring into endowed vicarages possessed by lay impropriators, and to reform that abuse ; and such as had great rectories to be enjoined to keep preaching ministers in the chapels of ease that lay at a distance from the mother-church ; for the advancement of trade, and bringing of corn into the kingdom, linen yarn, wool, corn, pipe staves, and living cattle were allowed to be transported into England without license ; and tallow, hides, fish, beef and pork in cask might be transported into any of the King's dominions, and all other states in amity with him. For the better securing of subjects in the quiet enjoyment of their estates, the King was content to limit his title to sixty years, and to take no advantage of any title accruing to him before that time, except to certain lands in the King's and Queen's counties, not yet granted away from the crown. For the benefit of the undertakers of Ulster, such of them as were Scots were to be made denizens, and all of them were to be confirmed in their estates upon doubling their rents, and paying a fine at the rate of L. 30 for every thousand acres, and a commission to be issued out for passing new patents, (the want and delay of which had made them uneasy for many years), and to make a reasonable composition between such of them as had built upon glebe lands, and the incumbents to whom the glebe belonged. For the relief and satisfaction of many of the planters in the King's and Queen's counties, and in those of Ossory, Leytrim, Longford, and West Meath, and in the town of Athlone, a further time was allowed them to perform the conditions of their plantations, the neglect whereof had forfeited their title to the lands allotted them for that purpose. To quiet the minds, and secure the possessions of the Lords, gentlemen, and freeholders of Connaught and Clare, they
were

were admitted to enroll the surrenders made in the last reign, and to be allowed the fees which they had paid for the same; and such as had a mind to make new surrenders, were to have this same accepted and enrolled, and new patents passed to them, paying only half fees; tenures *in capite* found for lands by office before 21st July 1615, being reserved to the King, but all the rest of the lands found since to be held by knight's service, as of the castle of Athlone. And, for a further security to the proprietors, their several estates were to be confirmed to them and their heirs by the next parliament to be held in the kingdom; in which, likewise, to remove the fears and apprehensions of every body throughout the whole nation, an act was to be passed for a free and general pardon; *Carte's History of Ormond, vol. 1. p. 51.*

F I N I S.



Barron, William

History of the political connection between England and Ireland from the
Reign of Henry II. to the Present Time

London 1780

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